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SPECIAL PUBLICATION 51

# CALIFORNIA SURFACE MINING AND RECLAMATION POLICIES AND PROCEDURES

## 2000

Third Revision
January 2000

Gray Davis
*Governor*
State of California

Mary Nichols
*Secretary*
The Resources Agency

Darryl Young
*Director*
Department of Conservation

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*State Geologist*
Division of Mines and Geology

California Department of Conservation
State Mining and Geology Board
Office of Mine Reclamation
Division of Mines and Geology
801 K Street
Sacramento, CA 95814

# CALIFORNIA SURFACE MINING AND RECLAMATION POLICIES AND PROCEDURES

*with the*

Surface Mining and Reclamation Act of 1975

Third Revision
January 2000

**2000**

*Prepared by*

**The California State Mining and Geology Board**

*In cooperation with*

**Office of Mine Reclamation**

*and*

**Division of Mines and Geology**

ATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, Governor

EPARTMENT OF CONSERVATION
K Street, MS 24-01
ramento, CA 95814-3531
6) 322-1080
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6) 324-2555 TDD

Dear Interested Party:

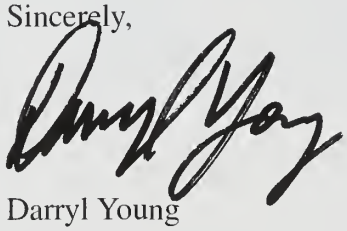
I am pleased to present *The Surface Mining and Reclamation Act: Law, Regulations, and Guidelines* for use by local agencies, mine operators, and others involved with surface mining in California.

As you know, Governor Davis's Administration is committed to protecting our environment and ensuring that our state's natural resources will be enjoyed by future generations of Californians. For over two decades, the Surface Mining and Reclamation Act of 1975 (SMARA) has played an important role in minimizing impacts to the environment caused by surface mining and restoring land to ways that can be enjoyed by all of us. Because of SMARA, California produces the minerals necessary for continued economic prosperity while maintaining the environmental standards that our state has pioneered.

*The Surface Mining and Reclamation Act: Law, Regulations, and Guidelines*, presents comprehensive information regarding SMARA to meet the needs of all involved in mining, reclamation, land use planning, and regulatory compliance. In addition, staff at the Department of Conservation are available to lend direct personal assistance.

Thank you for your interest in this publication and your role in stewardship of our state's mineral resources. We look forward to working with you to ensure that California's natural resources are managed wisely and to the benefit of all Californians.

Sincerely,



Darryl Young
Director

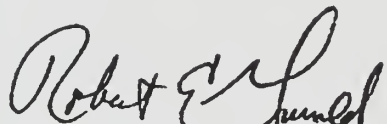
## PREFACE

The Surface Mining and Reclamation Act of 1975 (SMARA), enacted as Chapter 9, Division 2 of the Public Resources Code, requires the State Mining and Geology Board to adopt State policy for the reclamation of mined lands and the conservation of mineral resources. That policy is for the guidance of local governments who are required by the Act both to obtain reclamation plans for surface mining operations and to adopt mineral resource management policies in their general plans, which recognize and conserve mineral resources.

Special Publication 51 was first published as a compilation of SMARA law, policy, and guidelines in April 1977, and revised twice since in June 1979 and April 1983. This is the third revision.

The policy included is from the California Code of Regulations under Title 14 Natural Resources, Division 2 Department of Conservation, Chapter 8 Mining and Geology, Subchapter 1 State Mining and Geology Board.

It is intended that further modifications to this publication be made available as new pages for insertion.



Robert Grunwald, Chairman
State Mining and Geology Board

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## THE STATE MINING AND GEOLOGY BOARD

# SURFACE MINING AND RECLAMATION ACT AND RELATED CODES

### SURFACE MINING AND RECLAMATION ACT OF 1975
### PUBLIC RESOURCES CODE, DIVISION 2, CHAPTER 9, SECTION 2710 ET SEQ.

As amended by:

Senate Bill 1300, Nejedly–1980 Statutes
Assembly Bill 110, Areias–1984 Statutes
Senate Bill 593, Royce–1985 Statutes
Senate Bill 1261, Seymour–1986 Statutes
Assembly Bill 747, Sher–1987 Statutes
Assembly Bill 3551, Sher–1990 Statutes
Assembly Bill 3903, Sher–1990 Statutes
Assembly Bill 1506, Sher–1991 Statutes
Senate Bill 1569, Rogers–1992 Statutes
Assembly Bill 3098, Sher–1992 Statutes
Assembly Bill 723, Sher–1993 Statutes
Assembly Bill 904, Sher–1993 Statutes
Assembly Bill 867, Sher–1994 Statutes
Senate Bill 273, Leslie–1995 Statutes
Senate Bill 614, Craven et al–1995 Statutes
Assembly Bill1373, Olberg–1996 Statutes
Senate Bill 1549, Monteith–1996 Statutes
Senate Bill 1664, Sher–1998 Statutes, and
Assembly Bill 297, Thompson–1999 Statutes

## Article 1. General Provisions

**§ 2710.** This chapter shall be known and may be cited as the Surface Mining and Reclamation Act of 1975.

**§ 2711.**

(a) The Legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(b) The Legislature further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

(c) The Legislature further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

**§ 2712.** It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.

**§ 2713.** It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

**§ 2714.** This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earthmoving activities that are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by section 2001, determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

**§ 2715.** No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the police power of any city or county or on the power of any city or county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

(e) On the power of any lead agency to adopt policies, standards, or regulations imposing additional requirements on any person if the requirements do not prevent the person from complying with the provisions of this chapter.

(f) On the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residents, open space (including agriculture, recreation, the enjoyment of scenic beauty, and the use of natural resources), and other purposes.

**§ 2715.5.**

(a) The Cache Creek Resource Management Plan, in conjunction with a site specific plan deemed consistent by the lead agency with the Cache Creek Resource Management Plan, until December 31, 2003, shall be considered to be a functional equivalent of a reclamation plan for the purposes of this chapter. No other reclamation plan shall be required to be reviewed and approved for any excavation project subject to the Cache Creek Resource Management Plan that is conducted in conformance with an approved site specific plan that is consistent with the Cache Creek Resource Management Plan, and the standards specified in that plan governing erosion control, channel stabilization, habitat restoration, flood control, or infrastructure maintenance, if that plan is reviewed and approved by a lead agency pursuant to this chapter.

(b) For purposes of this section, the board of supervisors of the county in which the Cache Creek Resource Management Plan is to be implemented shall prepare and file the annual report required to be prepared pursuant to Section 2207.

(c) Nothing in this section precludes an enforcement action by the board or the department brought pursuant to this chapter or Section 2207 if the lead agency or the director determines that a surface mining operator, acting under the authority of the Cache Creek Resource Management Plan, is not in compliance with the requirements of this chapter or Section 2207.

(d) "Site specific plan," for the purposes of this section, means an individual project plan approved by the lead agency that is consistent with the Cache Creek Resource Management Plan. Site specific plans prepared in conformance with the Cache Creek Resource Management Plan shall, at a minimum, include the information required pursuant to subdivision (c) of Section 2772, shall comply with the requirements of Article 9 (commencing with Section 3700) of Subchapter 1 of Chapter 8 of Title 14 of the California Code of Regulations and shall be provided along with a financial assurance estimate to the department for review and comment pursuant to Section 2774. Notwithstanding the number of days authorized by paragraph (1) of subdivision (d) of Section 2774, the department shall review the site specific plan and the financial assurance estimate and prepare any written comments within 15 days from the date of receipt of the plan and the estimate.

(e) Prior to engaging in an excavation activity in conformance with the Cache Creek Resource Management Plan, a surface mining operation shall be required to obtain financial assurances that meet the requirements of Section 2773.1.

(f) This section shall remain in effect only until December 31, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2003, deletes or extends that date.

**§ 2716.** Any person may commence an action on his or her own behalf against the board, the State Geologist, or the director for a writ of mandate pursuant to Chapter 2 (com-

mencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board, the State Geologist, or the director to carry out any duty imposed upon them pursuant to this chapter.

§ 2717.

(a) The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. The report shall include a statement of the actions, including legislative recommendations, which are necessary to carry out more completely the purposes and requirements of this chapter.

(b) For purposes of ensuring compliance with Section 10295.5 of the Public Contract Code, on and after July 1, 1993, the department shall, at a minimum, quarterly publish in the California Regulatory Notice Register, or otherwise make available upon request to the Department of General Services or any other state agency, a list identifying all of the following:

(1) Surface mining operations for which a report has been submitted pursuant to Section 2207 which indicates that the reclamation plan and the financial assurances have been approved.

(2) Surface mining operations for which an appeal is pending before the board pursuant to subdivision (e) of Section 2770, provided that the appeal shall not have been pending before the board for more than 180 days.

**§ 2718.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

**§ 2719.** Notwithstanding any other provision of law, neither the state nor any county, city, district, or other political subdivision shall be exempt from any fee imposed upon a mining operation pursuant to subdivision (d) of Section 2207.

## Article 2. Definitions

**§ 2725.** Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

**§ 2726.** "Area of regional significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the perma nent loss of minerals that are of more than local significance

**§ 2727.** "Area of statewide significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

**§ 2727.1.** "Idle" means to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

**§ 2728.** "Lead agency" means the city, county, San Francisco Bay Conservation and Development Commission, or the board which has the principal responsibility for approving a surface mining operation or reclamation plan pursuant to this chapter.

**§2729.** "Mined lands" includes the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

**§ 2730.** "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

**§ 2731.** "Operator" means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

**§ 2732.** "Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

**§ 2732.5.** "Permit" means any authorization from, or approval by, a lead agency, the absence of which would preclude surface mining operations.

**§ 2733.** "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution,

damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

**§ 2734.** "State policy" means the regulations adopted by the board pursuant to Section 2755.

**§ 2735.** "Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

(a) Inplace distillation or retorting or leaching.

(b) The production and disposal of mining waste.

(c) Prospecting and exploratory activities.

### Article 3. District Committees

**§ 2740.** In carrying out the provisions of this chapter, the board may establish districts and appoint one or more district technical advisory committees to advise the board. In establishing districts for these committees, the board shall take into account physical characteristics, including, but not limited to, climate, topography, geology, type of overburden, and principal mineral commodities. Members of the committees shall be selected and appointed on the basis of their professional qualifications and training in mineral resource conservation, development and utilization, land use planning, mineral economics, or the reclamation of mined lands.

**§ 2741.** The members of the committee shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

### Article 4. State Policy for the Reclamation of Mined Lands

**§ 2755.** The board shall adopt regulations which establish state policy for the reclamation of mined lands in accordance with the general provisions set forth in Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

**§ 2756.** State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by lead agencies in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.

**§ 2757.** The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by lead agencies in preparing specific and general plans, including the conservation and land use elements of the general plan and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.

**§ 2758.** Such policy shall include objectives and criteria for all of the following:

(a) Determining the lead agency pursuant to the provisions of Section 2771.

(b) The orderly evaluation of reclamation plans.

(c) Determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

**§ 2759.** The state policy shall be continuously reviewed and may be revised. During the formulation or revision of the policy, the board shall consult with, and carefully evaluate the recommendations of, the director, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals.

**§ 2760.** The board shall not adopt or revise the state policy, unless a public hearing is first held respecting its adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

**§ 2761.** (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify portions of the following areas within the state which are urbanized or are subject to urban expansion or other irreversible land uses which would preclude mineral extraction:

(1) Standard metropolitan statistical areas and such other areas for which information is readily available.

(2) Other areas as may be requested by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, any area for which classification has been requested by a petition which has been accepted by the board, or any other areas as may be specified by the board, as one of the following:

(1) Areas containing little or no mineral deposits.

(2) Areas containing significant mineral deposits.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

The State Geologist shall require the petitioner to pay the reasonable costs of classifying an area for which classification has been requested by the petitioner.

c) The State Geologist shall transmit the information to the board for incorporation into the state policy and for transmittal to lead agencies.

**§ 2762.**

(a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) If any area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use which would threaten the potential to extract minerals in that area the lead agency shall prepare, in conjunction with preparing any environmental document required by Division 13 (commencing with Section 21000), or in any event if no such document is required, a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(1) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(2) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.

The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, when the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

**§ 2763.**

(a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use

decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

**§ 2764.**

(a) Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the lead agency having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the lead agency's area of jurisdiction.

(b) In adopting amendments to the general plan, or adopting or amending a specific plan, the lead agency shall make written legislative findings as to whether the future land uses and particular access routes will be compatible or incompatible with the continuation of the surface mining operation, and if they are found to be incompatible, the findings shall include a statement of the reasons why they are to be provided for, notwithstanding the importance of the minerals to their market region as a whole or their previous designation by the board, as the case may be.

(c) Any evaluation of a mineral deposit prepared by a lead agency for the purpose of carrying out this section shall be transmitted to the State Geologist and the board.

(d) The procedure provided for in this section shall not be undertaken in any area that has been designated pursuant to Article 6 (commencing with Section 2790) if mineral resource management policies have been established and incorporated in the lead agency's general plan in conformance with Article 4 (commencing with Section 2755).

## Article 5. Reclamation of Mined Lands and the Conduct of Surface Mining Operations

**§ 2770.**

(a) Except as provided in this section, no person shall conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by, the lead agency for the operation pursuant to this article.

(b) Any person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency. For purposes of this subdivision, reclamation plans may consist of all or the appropriate sections of any plans or written agreements previously approved by the lead agency or another agency, together with any additional documents needed to substantially meet the requirements of Sections 2772 and 2773 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, provided that all documents which together were proposed to serve as the reclamation plan are submitted for approval to the lead agency in accordance with this chapter.

(c) If a person with an existing surface mining operation has received lead agency approval of its financial assurances for reclamation prior to January 1, 1991, the lead agency shall administratively review those existing financial assurances in accordance with subdivision (d) prior to January 1, 1992. The review of existing financial assurances shall not be considered a project for purposes of Division 13 (commencing with Section 21000). Any person with an existing surface mining operation which does not have financial assurances that received lead agency approval prior to January 1, 1991, shall submit financial assurances for reclamation for review in accordance with subdivision (d).

(d) The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead

agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval. Except as specified in subdivision (e) or (i), unless the operator has filed on or before July 1, 1990, an appeal pursuant to subdivision (e) with regard to nonapproval of the reclamation plan, or has filed on or before January 1, 1994, an appeal pursuant to subdivision (e) with regard to nonapproval of financial assurances, and that appeal is pending before the board, the continuation of the surface mining operation is prohibited until a reclamation plan and financial assurances for reclamation are approved by the lead agency.

(e) Any person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, (2) failed to act within a reasonable time of receipt of a completed application, or (3) failed to review and approve reclamation plans or financial assurances as required by subdivisions (c) and (d), may appeal that action or inaction to the board.

(f) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's review pursuant to this section.

(g) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal, or any longer period as may be mutually agreed upon by the board and the person filing the appeal. In hearing an appeal, the board shall only determine whether the reclamation plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. A reclamation plan or financial assurances determined to meet these requirements shall be approved. A reclamation plan or financial assurances determined not to meet these requirements shall be returned to the person filing the appeal with a notice of deficiencies, who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revise reclamation plan or the revised financial assurances to th lead agency for review and approval.

(h)(1) Within 90 days of a surface mining operatio becoming idle, as defined in Section 2727.1, the operator sha submit to the lead agency for review and approval, an interi management plan. The review and approval of an interi management plan shall not be considered a project for pu poses of Division 13 (commencing with Section 21000). Th approved interim management plan shall be considered a amendment to the surface mining operation's approved recla mation plan, for purposes of this chapter. The interim manage ment plan shall provide measures the operator will implemer to maintain the site in compliance with this chapter, including but not limited to, all permit conditions.

(2) The interim management plan may remain in effec for a period not to exceed five years, at which time the lea agency shall do one of the following:

(A) Renew the interim management plan for anothe period not to exceed five years, if the lead agency finds tha the surface mining operator has complied fully with th interim management plan.

(B) Require the surface mining operator to commenc reclamation in accordance with its approved reclamation plan

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idl after the expiration of its interim management plan, the sur face mining operation shall commence reclamation in accor dance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim manage ment plan, or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pur suant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal, or any longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

**§ 2770.5.** Whenever surface mining operations are proposed in the 100-year flood plain for any stream, as shown in Zone A of Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and within one mile, upstream or downstream, of any state highway bridge, the lead agency receiving the application for the issuance or renewal of a permit to conduct the surface mining operations shall notify the Department of Transportation that the application has been received. The Department of Transportation shall have a period of not more than 45 days to review and comment on the proposed surface mining operations with respect to any potential damage to the state highway bridge from the proposed surface mining operations. The lead agency shall not issue or renew the permit until the Department of Transportation has submitted its comments or until 45 days from the date the application for the permit was submitted, whichever occurs first.

**§ 2771.** Whenever a proposed or existing surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and is not separated by a natural or manmade barrier coinciding with the boundary of the agencies, the evaluation of the proposed or existing operation shall be made by the lead agency in accordance with the procedures adopted by the lead agency pursuant to Section 2774. If a question arises as to which public agency is the lead agency, any affected public agency, or the affected operator, may submit the matter to the board. The board shall notify in writing all affected public agencies and operators that the matter has been submitted, specifying a date for a public hearing. The board shall designate the public agency which shall serve as the lead agency, giving due consideration to the capability of the agency to fulfill adequately the requirements of this chapter and to an examination of which of the public agencies has principal permit responsibility.

**§ 2772.**

(a) The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations on the lands.

(b) All documentation for the reclamation plan shall be submitted by the lead agency to the department at one time.

(c) The reclamation plan shall include all of the following information and documents:

(1) The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.

(2) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(3) The proposed dates for the initiation and termination of surface mining operation.

(4) The maximum anticipated depth of the surface mining operation.

(5) The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands.

(6) A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(7) A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(8) A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including both of the following:

(A) A description of the manner in which contaminants will be controlled, and mining waste will be disposed.

(B) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur.

(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(10) A statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(11) Any other information which the lead agency may require by ordinance.

(d) An item of information or a document required pursuant to subdivision (c) that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the lead agency submits the reclamation plan to the director for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this article.

(e) Nothing in this section is intended to limit or expand the department's authority or responsibility to review a document in accordance with Division 13 (commencing with Section 21000).

**§ 2773.**

(a) The reclamation plan shall be applicable to a specific piece of property or properties, shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities, and shall establish site-specific criteria for evaluating compliance with the approved reclamation plan, including topography, revegetation and sediment, and erosion control.

(b) By January 1, 1992, the board shall adopt regulations specifying minimum, verifiable statewide reclamation standards. Subjects for which standards shall be set include, but shall not be limited to, the following:

(1) Wildlife habitat.

(2) Backfilling, regrading, slope stability, and recontou ing.

(3) Revegetation.

(4) Drainage, diversion structures, waterways, and ero sion control.

(5) Prime and other agricultural land reclamation.

(6) Building, structure, and equipment removal.

(7) Stream protection.

(8) Topsoil salvage, maintenance, and redistribution.

(9) Tailing and mine waste management.

These standards shall apply to each mining operation, bu only to the extent that they are consistent with the planned o actual subsequent use or uses of the mining site.

**§ 2773.1.**

(a) Lead agencies shall require financial assurances of eacl surface mining operation to ensure reclamation is performec in accordance with the surface mining operation's approvec reclamation plan, as follows:

(1) Financial assurances may take the form of surety bonds executed by an admitted surety insurer, as defined in subdivision (a) of Section 995.120 of the Code of Civil Procedure irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e), which the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

(4) The financial assurances shall be made payable to the lead agency and the department. Financial assurances that were approved by the lead agency prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the department for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances

adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the lead agency, and the department and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

(b) If the lead agency or the board, following a public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, either the lead agency or the director shall do all of the following:

(1) Notify the operator by personal service or certified mail that the lead agency or the director intends to take appropriate action to forfeit the financial assurances and specify the reasons for so doing.

(2) Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with its approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed upon by the lead agency or the director and the operator.

(3) Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with paragraph (2).

(4) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurances be used for any other purpose. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the director, that reclamation has been completed in accordance with the approved reclamation plan. If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Section 2770.

(d) The lead agency shall have primary responsibility to seek forfeiture of financial assurances and to reclaim mine sites under subdivision (b). However, in cases where the board is not the lead agency pursuant to Section 2774.4, the director may act to seek forfeiture of financial assurances and reclaim mine sites pursuant to subdivision (b) only if both of the following occur:

(1) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the director.

(2) The lead agency has been notified in writing by the director of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following has occurred:

(A) The lead agency has been notified in writing by the director that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mine site shall result in actions being taken against the lead agency under Section 2774.4.

(B) The director determines that there is a violation that amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.

(C) The lead agency notifies the director in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful.

The director shall comply with subdivision (b) in seeking forfeiture of financial assurances and reclaiming mine sites.

(e) The board may adopt regulations specifying financial assurance mechanisms other than surety bonds, irrevocable letters of credit, and trust funds, which the board determines are reasonably available and adequate to ensure reclamation pursuant to this chapter, but these mechanisms may not include financial tests, or surety bonds executed by one or more personal sureties. These mechanisms may include reclamation bond pool programs.

(f) On or before March 1, 1993, the board shall adopt guidelines to implement this section. The guidelines are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and are not subject to review by the Office of Administrative Law.

**§ 2773.15.** Notwithstanding Section 2773.1, a surety bond that was executed by any personal surety that was approved by the lead agency prior to February 13, 1998, to ensure that

reclamation is performed in accordance with a reclamation plan approved by a lead agency prior to that date, may be utilized to satisfy the requirements of this chapter, if the amount of the financial assurance required to perform the approved reclamation plan, as amended or updated from time to time, does not change from the amount approved prior to February 13, 1998.

**2773.2.**

(a) The Secretary of the Resources Agency shall convene a multiagency task force that shall evaluate the effectiveness of the Cache Creek Resource Management Plan in achieving the plan's objectives concerning the rehabilitation and restoration of Cache Creek and identify those aspects of the plan that should be modified or eliminated to more effectively achieve the goals of this chapter.

(b) The task force shall consist of nine members as follows:

(1) A representative of the department.

(2) A representative of the Department of Fish and Game.

(3) A representative of the State Water Resources Control Board.

(4) Six members appointed by the Secretary of the Resources Agency. Of these six members, two shall be elected officials of a city or county with active mining operations within its jurisdiction, one of whom shall represent northern California interests, and one of whom shall represent southern California interests; one shall be a person currently engaged in in-stream mining activities as an employee or owner of a mining operation; one shall be a member of the State Mining and Geology Board; and two shall be members of the scientific community who are affiliated with a California institution of higher education. The representative of the department shall serve as the chairperson of the task force. (c) The task force, not later than January 1, 2001, shall recommend to the Secretary of the Resources Agency any revisions to this chapter or any other provisions of law, including regulations of the State Mining and Geology Board, that are necessary to incorporate regional resource management plans in the state's regulation of in-stream mine reclamation. The task force recommendations shall, at a minimum, address all of the following issues:

(1) Flood control.

(2) Stream bank and channel erosion control.

(3) Slope stability.

(4) Vegetation and revegetation.

(5) The interrelationships of private and public land ownership along and within streambed areas, including ownership rights that are or may be "vested" as the term is used in Section 2776.

(6) The provision of adequate financial assurances for reclaiming mined areas.

(7) The monitoring of compliance with qualitative and quantitative measures to regulate mine reclamation on large segments of streams and rivers.

(8) Cumulative and site specific issues related to resource management for in-stream mine reclamation.

(d) The department shall only convene the multiagency task force required pursuant to subdivision.

(a) If the costs associated with the operation of the task force will not diminish the department's ability to provide reclamation plan review, financial assurance review, and field inspections, undertake other enforcement actions and provide local assistance to cities or counties under this chapter.

**§ 2774.**

(a) Every lead agency shall adopt ordinances in accordance with state policy which establish procedures for the review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter. In no event shall a lead agency inspect a surface mining operation less than once in any calendar year. The lead agency may cause such an inspection to be conducted by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the surface mining operation in any capacity during the previous 12 months. All inspections shall be conducted using a form developed by the department and approved by the board. The operator shall be solely responsible for the reasonable cost of the inspection. The lead agency shall notify the director within 30 days of the date of completion of the inspection that the

inspection has been conducted. The notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations, if any, are inconsistent with this chapter. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b), (c), (d), or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the notice shall so indicate. The lead agency shall forward to the operator a copy of the notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report prepared by the geologist, civil engineer, landscape architect, or forester.

(c) Prior to approving a surface mining operation's reclamation plan, financial assurances, including existing financial assurances reviewed by the lead agency pursuant to subdivision (c) of Section 2770, or any amendments, the lead agency shall submit the plan, assurances, or amendments to the director for review. All documentation for that submission shall be submitted to the director at one time. When the lead agency submits a reclamation plan or plan amendments to the director for review, the lead agency shall also submit to the director, for use in reviewing the reclamation plan or plan amendments, information from any related document prepared, adopted, or certified pursuant to Division 13 (commencing with Section 21000), and shall submit any other pertinent information. The lead agency shall certify to the director that the reclamation plan is in compliance with the applicable requirements of Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations in effect at the time that the reclamation plan is submitted to the director for review.

(d) (1) The director shall have 30 days from the date of receipt of a reclamation plan or plan amendments submitted pursuant to subdivision (c), and 45 days from the date of receipt of financial assurances submitted pursuant to subdivision (c), to prepare written comments, if the director so chooses. The lead agency shall evaluate any written comments received from the director relating to the reclamation plan, plan amendments, or financial assurances within a reasonable amount of time.

(2) The lead agency shall prepare a written response to the director's comments describing the disposition of the major issues raised. In particular, if the lead agency's position is at variance with any of the recommendations made, or objections raised, in the director's comments, the written response shall address, in detail, why specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator.

(3) To the extent that there is a conflict between the comments of a trustee agency or a responsible agency that are based on the agency's statutory or regulatory authority and the comments of other commenting agencies which are received by the lead agency pursuant to Division 13 (commencing with Section 21000) regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(e) Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of such an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.

**§ 2774.1.**

(a) Except as provided in subdivision (i) of Section 2770, if the lead agency or the director determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the mining operation, that a surface mining operation is not in compliance with this chapter, the lead agency or the director may notify the operator of that violation by personal service or certified mail. If the violation extends beyond 30 days after the date of the lead agency's or the director's notification, the lead agency or the director may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further mining activities.

(b) An order issued under subdivision (a) shall not take effect until the operator has been provided a hearing before the lead agency for orders issued by the lead agency, or board for orders issued by the director, concerning the alleged violation. Any order issued under subdivision (a) shall specify which aspects of the surface mine's activities or operations are inconsistent with this chapter, shall specify a time for compliance which the lead agency or director determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than 30 days after the date of the order.

(c) Any operator who violates or fails to comply with an order issued under subdivision (a) after the order's effective

date, as provided in subdivision (b), or who fails to submit a report to the director or lead agency as required by Section 2207, shall be subject to an order by the lead agency or the director imposing an administrative penalty of not more than five thousand dollars ($5,000) per day, assessed from the original date of noncompliance with this chapter or Section 2207. The penalty may be imposed administratively by the lead agency or the director. In determining the amount of the administrative penalty, the lead agency or the director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof and payment shall be made to the lead agency or the director within 30 days, unless the operator petitions the legislative body of the lead agency, the board, or the superior court for review as provided in Section 2774.2. Any order shall be served by personal service or by certified mail upon the operator. Penalties collected by the director shall be used for no purpose other than to cover the reasonable costs incurred by the director in implementing this chapter or Section 2207.

(d) If the lead agency or the director determines that the surface mine is not in compliance with this chapter, so that the surface mine presents an imminent and substantial endangerment to the public health or the environment, the lead agency or the Attorney General, on behalf of the director, may seek an order from a court of competent jurisdiction enjoining that operation.

(e) Upon a complaint by the director, the department, or the board, the Attorney General may bring an action to recover administrative penalties under this section, and penalties under Section 2207, in any court of competent jurisdiction in this state against any person violating any provision of this chapter or Section 2207, or any regulation adopted pursuant to this chapter or Section 2207. The Attorney General may bring such an action on his or her own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred. The Attorney General may also seek an order from a court of competent jurisdiction compelling the operator to comply with this chapter and Section 2207.

(f) The lead agency has primary responsibility for enforcing this chapter and Section 2207. In cases where the board is not the lead agency pursuant to Section 2774.4, enforcement actions may be initiated by the director pursuant to this section only after the violation has come to the attention of the director and either of the following occurs:

(1) The lead agency has been notified by the director in writing of the violation for at least 15 days, and has not taken appropriate enforcement action.

(2) The director determines that there is a violation whic amounts to an imminent and substantial endangerment to th public health or safety, or to the environment.

The director shall comply with this section in initiatin enforcement actions.

(g) Remedies under this section are in addition to, and d not supersede or limit, any and all other remedies, civil or crimi nal.

**§ 2774.2.**

(a) Within 30 days of the issuance of an order settin administrative penalties under subdivision (c) of Sectio 2774.1, the operator may petition that legislative body of th lead agency, if the lead agency has issued the order, or th board for orders issued by the director, for review of the orde If the operator does not petition for review within the tim limits set by this subdivision, the order setting administrativ penalties shall not be subject to review by any court or agency

(b) The legislative body of the lead agency or the boar shall notify the operator by personal service or certified mai whether it will review the order setting administrative penal ties. In reviewing an order pursuant to this section, the recor shall consist of the record before the lead agency or the direc tor, and any other relevant evidence which, in the judgment o the legislative body or the board, should be considered t effectuate and implement the policies of this chapter.

(c) The legislative body or the board may affirm, modify or set aside, in whole or in part, by its own order, any order o the lead agency or the director setting administrative penaltie reviewed by the legislative body or the board pursuant to thi section.

(d) Any order of the legislative body or the board issue under subdivision (c) shall become effective upon issuanc thereof, unless the operator petitions the superior court for re view as provided in subdivision (e). Any order shall be serve by personal service or by certified mail upon the operator. Pay ment of any administrative penalty which is specified in a order issued under subdivision (c), shall be made to the lea agency or the director within 30 days of service of the order however, the payment shall be held in an interest bearing im pound account pending the resolution of a petition for revie filed pursuant to subdivision (e).

(e) Any operator aggrieved by an order of the legislativ body or the board issued under subdivision (c) may obtai review of the order by filing in the superior court a petition fo writ of mandate within 30 days following the issuance of th order. Any operator aggrieved by an order of a lead agency o the director setting administrative penalties under subdivisio

(c) of Section 2774.1, for which the legislative body or board denies review, may obtain review of the order in the superior court by filing in the court a petition for writ of mandate within 30 days following the denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If the operator does not petition for a writ of mandate within the time limits set by this subdivision, an order of the board or the legislative body shall not be subject to review by any court or agency.

**§ 2774.3.** The board shall review lead agency ordinances which establish permit and reclamation procedures to determine whether each ordinance is in accordance with state policy, and shall certify the ordinance as being in accordance with state policy if it adequately meets, or imposes requirements more stringent than, the California surface mining and reclamation policies and procedures established by the board pursuant to this chapter.

**§ 2774.4.**

(a) If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.

(b) If, no sooner than three years after the board has taken action pursuant to subdivision (a), the board finds, after a public hearing, that a lead agency has corrected its deficiencies in implementing and enforcing this chapter, and the rules and regulations adopted pursuant to this chapter, the board shall restore to the lead agency the powers assumed by the board pursuant to subdivision (a).

(c) Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allows the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

(d) Affected surface mining operators and interested persons have the right, at the public hearing, to present oral and written evidence on the matter being considered. The board may, at the public hearing, place reasonable limits on the right of affected surface mining operators and interested persons to question and solicit testimony.

(e) If, after conducting the public hearing required by subdivision (c), the board decides to take action pursuant to subdivision (a) the board shall, based on the record of the public hearing, adopt written findings which explain all of the following:

(1) The action to be taken by the board.

(2) Why the board decided to take the action.

(3) Why the action is authorized by, and meets the requirements of, subdivision (a).

In addition, the findings shall address the significant issues raised, or written evidence presented, by affected surface mining operators, interested persons, or the lead agency. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.

(f) The lead agency, any affected surface mining operator, or any interested person who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the board's decision. Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency.

**§ 2774.5.**

(a) If, upon review of an ordinance, the board finds that it is not in accordance with state policy, the board shall communicate the ordinance's deficiencies in writing to the lead agency. Upon receipt of the written communication, the lead agency shall have 90 days to submit a revised ordinance to the board for certification as being in accordance with state policy. The board shall review the lead agency's revised ordinance for certification within 60 days of its receipt. If the lead agency does not submit a revised ordinance within 90 days, the board shall

assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(b) If, upon review of a lead agency's revised ordinance, the board finds the ordinance is still not in accordance with state policy, the board shall again communicate the ordinance's deficiencies in writing to the lead agency. The lead agency shall have a second 90-day period in which to revise the ordinance and submit it to the board for review. If the board again finds that the revised ordinance is not in accordance with state policy or if no revision is submitted, the board shall assume full authority for reviewing and approving reclamation plans submitted to the lead agency until the time the lead agency's ordinances are revised in accordance with state policy.

(c) In any jurisdiction in which the lead agency does not have a certified ordinance, no person shall initiate a surface mining operation unless a reclamation plan has been submitted to, and approved by, the board. Any reclamation plan, approved by a lead agency under the lead agency's ordinance which was not in accordance with state policy at the time of approval, shall be subject to amendment by the board or under the ordinance certified by the board as being in accordance with state policy.

(d) Reclamation plans approved by the board pursuant to this section shall not be subject to modification by the lead agency at a future date but may be amended by the board. Reclamation plans approved by the board shall be remanded to the lead agency upon certification of the lead agency's ordinance, and the lead agency shall approve the reclamation plan as approved by the board, except that a subsequent amendment as may be agreed upon between the operator and the lead agency may be made according to this chapter. No additional public hearing shall be required prior to the lead agency's approval. Nothing in this section shall be construed as authorizing the board to issue a permit for the conduct of mining operations.

**§ 2775.**

(a) An applicant whose request for a permit to conduct surface mining operations in an area of statewide or regional significance has been denied by a lead agency, or any person who is aggrieved by the granting of a permit to conduct surface mining operations in an area of statewide or regional significance, may, within 15 days of exhausting his rights to appeal in accordance with the procedures of the lead agency, appeal to the board.

(b) The board may, by regulation, establish procedures for declining to hear appeals that it determines raise no substantial issues.

(c) Appeals that the board does not decline to hear sha be scheduled and heard at a public hearing held within th jurisdiction of the lead agency which processed the origin application within 30 days of the filing of the appeal, or suc longer period as may be mutually agreed upon by the boa and the person filing the appeal. In any such action, the boa shall not exercise its independent judgment on the evidenc but shall only determine whether the decision of the lead agenc is supported by substantial evidence in the light of the whol record. If the board determines the decision of the lead agenc is not supported by substantial evidence in the light of the whol record it shall remand the appeal to the lead agency and th lead agency shall schedule a public hearing to reconsider it action.

**§ 2776.** No person who has obtained a vested right to cor duct surface mining operations prior to January 1, 1976, sha be required to secure a permit pursuant to this chapter as lon as the vested right continues and as long as no substantia changes are made in the operation except in accordance wit this chapter. A person shall be deemed to have vested rights i prior to January 1, 1976, he or she has, in good faith and i reliance upon a permit or other authorization, if the permit o other authorization was required, diligently commenced sur face mining operations and incurred substantial liabilities fo work and materials necessary therefor. Expenses incurred i obtaining the enactment of an ordinance in relation to a par ticular operation or the issuance of a permit shall not be deeme liabilities for work or materials.

The reclamation plan required to be filed under subdivi sion (b) of Section 2770, shall apply to operations conducte after January 1, 1976, or to be conducted.

Nothing in this chapter shall be construed as requiring th filing of a reclamation plan for, or the reclamation of, mine lands on which surface mining operations were conducted prio to January 1, 1976.

**§ 2777.** Amendments to an approved reclamation plan may be submitted detailing proposed changes from the origina plan. Substantial deviations from the original plan shall no be undertaken until such amendment has been filed with, and approved by, the lead agency.

**§ 2778.**

(a) Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency that the release of that information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application. Proprietary information shall be

made available only to the director and to persons authorized in writing by the operator and by the owner.

(b) A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the director by lead agencies on request.

**§ 2779.** Whenever one operator succeeds to the interest of another in any incompleted surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.

## Article 6. Areas of Statewide or Regional Significance

**§ 2790.** After receipt of mineral information from the State Geologist pursuant to subdivision (c) of Section 2761, the board may by regulation adopted after a public hearing designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries thereof. Such designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area.

**§ 2791.** The board shall seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance.

**§ 2792.** Neither the designation of an area of regional or statewide significance nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code, pursuant to the Subdivision Map Act (Division 2 [commencing with Section 66410] of Title 7 of the Government Code), or by a building permit or other authorization to commence development, upon which such person relies and has changed his position to his substantial detriment, and, which permit or authorization was issued prior to the designation of such area pursuant to Section 2790. If a developer has by his actions taken in reliance upon prior regulations obtained vested or other legal rights that in law would have prevented a local public agency from changing such regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

**§ 2793.** The board may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board is no longer required.

## Article 7. Fiscal Provisions

**§ 2795.**

(a) Notwithstanding any other provision of law, the first two million dollars ($2,000,000) of moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, and may be expended, upon appropriation by the Legislature, for the purposes of this chapter. However, if in any fiscal year, the amount of money disbursed to the state pursuant to Section 35 of the Mineral Lands Leasing Act is less than twenty million dollars ($20,000,000), then only the first one million one hundred thousand dollars ($1,100,000) of that money shall be deposited in the Surface Mining and Reclamation Account for the next fiscal year.

(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

**§ 2796.**

(a) The Legislature hereby establishes a state abandoned minerals and mineral materials mine reclamation program for the purpose of administering funds received by the state under the Surface Mining Control and Reclamation Act of 1977, or through amendments to the federal general mining laws (30 U.S.C. Secs. 1, 12A, 16, 161, and 162, and 602, et seq.).

(b) There is hereby created in the State Treasury, the Abandoned Mine Reclamation and Minerals Fund. The money in the fund may be expended, upon appropriation by the Legislature, as required by federal legislation amending the federal general mining laws, and for the following purposes:

(1) Development of an inventory of mined lands, water, and facilities eligible for reclamation.

(2) Establishment by the director of the abandoned minerals and mineral materials mine reclamation program pursuant to the pending federal legislation amending the federal general mining laws, if enacted, that provides for all of the following:

(A) (i) Reclamation and restoration of abandoned surface mined areas.

(ii) For purposes of this subparagraph, "abandoned surface mined area" means mined lands that meet all of the following requirements:

(I) Mining operations have ceased for a period of one year or more.

(II) There is no interim management plan in effect that meets the requirements of Section 2770.

(III) There are no approved financial assurances that are adequate to perform reclamation in accordance with this chapter.

(IV) The mined lands are adversely affected by past mineral mining, other than mining for coal, oil, and gas, and mineral material mining.

(B) Reclamation and restoration of abandoned milling and processing areas.

(C) Sealing, filling, and grading abandoned deep mine entries.

(D) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(E) Prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage.

(F) Control of surface subsidence due to abandoned deep mines.

(G) The expenses necessary to accomplish the purposes of this section.

(3) To the extent those expenditures are allowed by the applicable statutes:

(A) Grants to lead agencies for the purposes of carrying out this chapter.

(B) Implementation of this chapter and Section 2207 by the department, which may include an offsetting reduction in the amount of reporting fees collected from each active and idle mining operation and deposited in the Mine Reclamation Account pursuant to subdivision (d) of the Section 2207, as determined by the director.

(c) The Abandoned Mine Reclamation and Minerals Fund shall be the depository for all moneys from mining activities on federal lands, as follows:

(1) (A) Disbursements made by the United States ea fiscal year to this state pursuant to Section 35 of the Miner Lands Leasing Act (30 U.S.C. Sec. 191), with respect to ro alties levied on the production of locatable minerals or mi eral concentrates from any mining claim located on feder lands in the state pursuant to the pending federal legislatic amending the federal general mining laws, but excluding o gas, and geothermal revenues.

(B) The federal funds specified in this paragraph do n include the funds deposited in the Surface Mining and Recl mation Account pursuant to Section 2795, the funds deposite in the Geothermal Resources Development Account pursua to Section 3820, or the funds deposited in the State Scho Fund pursuant to Section 12320 of the Education Code.

2) Grants made by the Secretary of the Interior to th state from the Abandoned Minerals Mine Reclamation Fun pursuant to the pending federal legislation amending th federal general mining laws, for the implementation of a abandoned minerals and mining materials mine reclamatio program.

(d) The expenditure of money from the Abandoned Min Reclamation and Minerals Fund shall reflect the following pri orities and other priorities as specified in federal statute in th following ranking:

(1) The protection of public health and safety and th environment from the adverse effects of past minerals and min eral materials mining practices.

(2) The protection of property that is in extreme dange as a result of past minerals and mineral materials minin practices.

(3) The restoration of land and water resources previ ously degraded by the adverse effects of past minerals an mineral materials mining practices.

(e) Proposed expenditures from the Abandoned Min Reclamation and Minerals Fund shall be included in a sepa rate item in the Budget Bill for each fiscal year for consider ation by the Legislature. Each appropriation from the fund shal be subject to all the limitations contained in the Budget Ac and to all other fiscal procedures prescribed by law with re spect to the expenditure of state funds.

NOTE: Section 2796 shall become operative upon the effective date of any federal legislation which is enacted requiring the payment of a royalty on the production of locatable minerals, produced from any mining claim located or converted on federal lands in this state, excluding royalties paid on oil, gas, and geothermal lease activities, and not already subject to disposition under any of the following:

(1) The Mineral Lands Leasing Act (30 U.S.C. Sec. 191).

(2) The Geothermal Steam Act of 1970 (30 U.S.C. ec. 100).

(3) The Materials Act of 1947 (30 U.S.C. Sec. 601).

(4) The Mineral Leasing Act for Acquired Lands (30 .S.C. Sec. 351).

ections 2715.5 and 2773.2 of this act shall not become operative ntil such time that the State Mining and Geology Board approves ie County of Yolo implementing ordinance governing in-channel oncommercial extraction activities carried out pursuant to the Cache reek Resource Management Plan and notifies the Secretary of State writing of that approval.

## ANNUAL REPORTING REQUIREMENTS AND REPORTING FEE

Public Resources Code, Division 2,
Chapter 2, Section 2207

Repealed and added by

AB 3551, Chapter 1097, Statutes of 1990, Sher,

Amended by

AB 3903, Chapter 1101, Statutes of 1990, Sher,
AB 1506, Chapter 845, Statutes of 1991, Sher,
AB 3098, Chapter 1077, Statutes of 1992, Sher,
SB 741, Chapter 1287, Statutes of 1993, Rogers, and

Repealed, added, and amended by

AB 297, Statutes of 1999, Thompson

**§ 2207.**

(a) The owner, lessor, lessee, agent, manager, or other erson in charge of any mining operation of whatever kind or haracter within the state shall forward to the director annu- ly not later than a date established by the director, upon forms rnished by the board, a report that identifies all of the llowing:

(1) The name, address, and telephone number of the per- n, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a desig- ated agent who resides in this state, and who will receive and ccept service of all orders, notices, and processes of the lead gency, board, director, or court.

(3) The location of the mining operation, its name, its mine umber as issued by the Bureau of Mines or the director, its ection, township, range, latitude, longitude, and approximate oundaries of the mining operation marked on a United States eological Survey 7 1/2 -minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) Every year, not later than the date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the board, a report that provides all of the information specified in paragraphs (1) to (14), inclusive, of subdivision (a).

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated

SECTION II STATE MINING AND GEOLOGY BOARD REGULATIONS

## THE STATE MINING AND GEOLOGY BOARD

# STATE MINING AND GEOLOGY BOARD REGULATIONS

## CALIFORNIA CODE OF REGULATIONS, TITLE 14, DIVISION 2, CHAPTER 8, SUBCHAPTER 1

### Article 1. Surface Mining and Reclamation Practice

**§ 3500.** Purpose.

It is the purpose of this subchapter to establish state policy for the reclamation of mined lands and the conduct of surface mining operations in accord with the general provisions set forth in Public Resources Code, Division 2, Chapter 9, Section 2710 et seq. (Surface Mining and Reclamation Act of 1975, as amended by Statutes of 1980).

Note: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2710-2795, Public Resources Code.

**§ 3501.** Definitions.

The following definitions as used herein shall govern the interpretation of these regulations:

**Agricultural Activity**. The cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodity, the raising of livestock or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation of these products for market.

**Angle of Repose**. The maximum angle of slope (measured from horizontal plane) at which loose cohesionless material will come to rest on a pile of similar material.

**Backfill**. Earth, overburden, mine waste or imported material used to replace material removed during mining.

**Borrow Pits**. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

**Critical Gradient**. The maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

**Excavations for On-Site Construction**. Earth material moving activities that are required to prepare a site for construction of structures, landscaping, or other land improvements (such as excavation, grading, compaction, and the creation of fills and embankments), or that in and of themselves constitute engineered works (such as dams, road cuts, fills, and catchment basins).

**Grading**. To bring an existing surface to a designed form by cutting, filling, and/or smoothing operations.

**Minerals**. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

**Person**. Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

**Reclamation Plan**. The applicant's (operator's) completed and approved plan for reclaiming the lands affected by his surface mining operations conducted after January 1, 1976, as called for in Section 2772 of the Act.

**Resoiling**. The process of artificially building or reconstructing a soil profile.

**Stream Bed Skimming**. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

**Surface Mining Operations**. In addition to the provisions of Section 2735 of the Act, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) are deemed to be surface mining operations unless specifically excluded under Section 2714 of the Act or Section 3505 of these regulations.

**Temporarily Deactivated Operation**. A surface mine that has been closed down and that the operator has maintained in the expectation of reopening it when the conditions justify.

**Topsoil**. The upper part of the soil profile that is relatively rich in humus, which is technically known as the A-horizon of the soil profile.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2726-2735, Public Resources Code.

§ **3502.** The Reclamation Plan.

(a) Objectives. Reclamation plans shall be developed to attain the objectives of Public Resources Code Section 2712(a)-(c).

(b) Reclamation Plan Elements. In addition to the information required by Public Resources Code Section 2772, the following elements shall be included in the reclamation plan:

(1) The environmental setting of the site of operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.

(2) The public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site.

(3) The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, regulatory agencies shall require an engineering analysis of the slope stability. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.

(4) Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas, shall be considered in the reclamation plan. Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plans shall include compaction of the fill materials in conformance with good engineering practice.

(5) Disposition of old equipment.

(6) Temporary stream or watershed diversions.

(c) Adequacy. In judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land-use characteristics of the mined lands and their surrounding area pursuant to Public Resources Code Section 2773.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2712(a)-(c), 2756-2757, 2770 and 2772-2773, Public Resources Code.

§ **3503.** Surface Mining and Reclamation Practice.

The following are minimum acceptable practices to be followed in surface mining operations:

(a) Soil Erosion Control.

(1) The removal of vegetation and overburden, if any, advance of surface mining shall be kept to the minimum.

(2) Stockpiles of overburden and minerals shall be ma aged to minimize water and wind erosion.

(3) Erosion control facilities such as retarding basi ditches, streambank stabilization, and diking shall be cc structed and maintained where necessary to control erosior

(b) Water Quality and Watershed Control.

(1) Settling ponds or basins shall be constructed to pr vent potential sedimentation of streams at operations whe they will provide a significant benefit to water quality.

(2) Operations shall be conducted to substantially pr vent siltation of ground-water recharge areas.

(c) Protection of Fish and Wildlife Habitat. All reaso able measures shall be taken to protect the habitat of fish a wildlife.

(d) Disposal of Mine Waste Rock and Overburden. Pe manent piles or dumps of mine waste rock and overburd shall be stable and shall not restrict the natural drainage wit out suitable provisions for diversion.

(e) Erosion and Drainage. Grading and revegetation sha be designed to minimize erosion and to convey surface runc to natural drainage courses or interior basins designed f water storage. Basins that will store water during periods surface runoff shall be designed to prevent erosion of spil ways when these basins have outlet to lower ground.

(f) Resoiling. When the reclamation plan calls f resoiling, coarse hard mine waste shall be leveled and covere with a layer of finer material or weathered waste. A soil lay shall then be placed on this prepared surface. Surface min that did not salvage soil during their initial operations sha attempt, where feasible, to upgrade remaining materials. Th use of soil conditioners, mulches, or imported topsoil shall b considered where revegetation is part of the reclamation pla and where such measures appear necessary. It is not justifie however, to denude adjacent areas of their soil, for any suc denuded areas must in turn be reclaimed.

(g) Revegetation. When the reclamation plan calls f revegetation the available research addressing revegetatic methods and the selection of species having good survival cha acteristics, for the topography, resoiling characteristics, an climate of the mined areas shall be used.

NOTE: Authority cited: Section 2755, Public Resources Cod Reference: Sections 2756 and 2757, Public Resources Code.

**§ 3504.** Administration by Lead Agency.

(a) Record Keeping. The lead agency shall establish and maintain in-house measures and procedures to ensure organized record-keeping and monitoring of surface mining reclamation under its jurisdiction. The lead agency shall forward a copy of each permit and approved reclamation plan to the California Division of Mines and Geology (Sacramento).

(b) Performance Assurances. The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for liens, surety bonds or other security, to guarantee the reclamation in accordance with the approved reclamation plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757, 2758(b), 2774(a) and 2778, Public Resources Code.

**§ 3505.** Special Provisions.

(a) Exemptions.

(1) In addition to the provisions of Public Resources Code Section 2714(a), (c) and (d), any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location, shall be exempt from the provisions of the Act.

(2) The purpose of this subdivision is to define the criteria of a "flood control facility," the clean out of which is exempt from the requirements of the Surface Mining and Reclamation Act of 1975 under PRC 2714(a); and

(b) It is intended that cleaning out of a previously engineered, constructed facility for which approved design plans exist is an activity to restore the usefulness of that flood control facility to its original design purpose. It is not the intent of this subsection to exempt the removal of materials from natural channels.

The removal of post construction accumulated materials from a responsible public agency approved, managed, engineered, constructed facility intended for the purpose of water retention or detention, debris retention, or from a flood water conveyance, where the post extraction condition, capacity or grade of the facility or conveyance does not exceed the as-built approved design specification contained in the approved documents for the facility or conveyance, shall be exempt from the provisions of the Act.

(3) The excavation, grading, or transportation of mineral materials, including overburden, exclusive of commercial surface mining activities as defined in Public Resources Code Section 2714(d), that is wholly integral and necessary to the conduct of agricultural activities either onsite or on non-contiguous parcels, shall meet the requirements of Public Resources Code Section 2714(a) for farming excavations or grading. This exemption does not apply to the exportation of mineral materials, including overburden, from the property that is in excess of 1,000 cubic yards for commercial purposes.

(b) Vested Rights. The permit and reclamation plan requirements for persons with vested rights are stated in Public Resources Code Section 2776.

Where a person with vested rights continues surface mining in the same area subsequent to January 1, 1976, he shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act.

NOTE: Authority cited: Sections 2714(d) and 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code.

## Article 2. Areas Designated to Be of Regional Significance

**§ 3550.** Introduction.

Pursuant to Section 2790 of the Surface Mining and Reclamation Act, the Mining and Geology Board designates certain mineral resource sectors within the following geographical areas to be of regional significance.

NOTE: Authority and reference cited: Section 2790, Public Resources Code.

**HISTORY**

1. New Article 2 (Sections 3550 and 3550.1) filed 10-22-81; effective thirtieth day thereafter (Register 81, No. 43).

**§ 3550.1.** Tujunga and Pacoima Wash Areas of the San Fernando Valley Region, Los Angeles County. On January 7, 1981, following a December 11, 1980, public hearing, the Mining and Geology Board designated Sectors A, B, C, and D of the Tujunga and Pacoima Wash areas to be of regional significance. In general, these sectors are described as follows:

(1) Sector A—Tujunga Valley east of the Hansen Dam flood control basin, west of the 210 freeway and excluding identified archaeological sites;

(2) Sector B—the Hansen Dam Area;

(3) Sector C—an area southwest of Hansen Dam; and

(4) Sector D—Pacoima Wash north of Lopez Dam.

These sectors contain sand and gravel deposts which provide a source of construction aggregate for the region's future need. Designation Map #81-I and a report summarizing the designation findings of the State Mining and Geology Board are on file at the Board's office in Sacramento.

NOTE: Authority and reference cited: Section 2790, Public Resources Code.

**§ 3550.2.** Santa Clara River Valley Area of the Western Ventura County Region, Ventura County. On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, C, D, E, F, G, H, I, and J, on Designation Map #82-1, in the Santa Clara River Valley to be of regional significance. In general, these sectors are described as follows:

(1) Sector A—Instream deposits of the Santa Clara River near the community of El Rio beginning approximately one mile downstream of the U.S. Highway 101 bridge and extending to a point approximately two miles upstream of the Los Angeles Avenue bridge.

(2) Sector B—Offstream deposits located adjacent to Vineyard Avenue in the community of El Rio.

(3) Sector C—Offstream deposits located in and adjacent to the community of El Rio.

(4) Sector D—Offstream deposits located east of Los Angeles Avenue and south of the Santa Clara River.

(5) Sector E—Instream deposits of the Santa Clara River beginning at the eastern boundary of Sector A and extending upstream to the confluence of Santa Paula Creek.

(6) Sector F—Instream deposits extending from the eastern boundary of Sector E upstream to the confluence of Sespe Creek.

(7) Sector G—Instream deposits extending from the eastern boundary of Sector F upstream to Cavin Road.

(8) Sector H—Instream deposits extending from the eastern boundary of Sector G upstream to Piru.

(9) Sector I—Instream deposits extending from the eastern boundary of Sector H upstream for approximately three miles.

(10) Sector J—Instream deposits extending from the eastern boundary of Sector I upstream to the Ventura County line.

These sectors contain sand and gravel deposits that pr vide a source of construction aggregate for the region's futu need. Designation Map #82-1 and a report summarizing t designation findings of the State Mining and Geology Boa "Designation of Regionally Significant Construction Aggr gate Resource Areas in the Western Ventura County and Si Production-Consumption Regions—March 1982," are on f at the Board's office in Sacramento.

NOTE: Authority cited: Section 2790, Public Resources Coc Reference: Sections 2726, 2761-63 and 2790-91, Public Resourc Code.

**HISTORY**

1. New section filed 5-6-82; effective thirtieth day thereafter (Regist 82, No. 19).

**§ 3550.3.** Simi Valley Area of the Simi Region, Ventu County. On January 28, 1982, following a November 19, 198 public hearing, the State Mining and Geology Board desi nated Sectors A, B, and C, on Designation Map #82-1, in t Simi Valley area to be of regional significance. In general, the sectors are described as follows:

(1) Sector A—Hillside deposits located on Oak Rid and the Simi Hills.

(2) Sector B—Hillside deposits located along a portio of Oak Ridge extending from Long Canyon eastward to t Ventura County line.

(3) Sector C—Hillside deposits located above Meir an Runkle Canyons in the Simi Hills.

These sectors contain sand and gravel deposits that pr vide a source of construction aggregate for the region's futur needs.

Designation Map #82-1 and a report summarizing th designation findings of the State Mining and Geology Boar "Designation of Regionally Significant Construction Aggre gate Resource Areas in the Western Ventura County and Sim Production-Consumption regions—March 1982," are on fil at the Board's office in Sacramento.

NOTE: Authority cited: Section 2790, Public Resources Code Reference: Sections 2726, 2761-63 and 2790-91, Public Resource Code.

**HISTORY**

1. New section filed 5-6-82; effective thirtieth day thereafter (Registe 82, No. 19).

**§ 3550.4.** Santa Ana River, Santiago Creek, Arroyo Trabuco, San Juan Creek, and Temescal Valley Areas of the

Orange County-Temescal Valley Region, Orange, Riverside, and San Bernardino Counties.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County-Temescal Valley and San Gabriel Valley Production-Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A—Instream deposits of the Santa Ana River beginning at Prado Dam and extending downstream for one and one-half miles.

Sector B—Instream deposits along the north side of the Santa Ana River beginning near Coal Canyon and extending downstream for approximately three miles.

Sector C—Instream deposits along the south side of the Santa Ana River from Horseshoe Bend downstream to the Weir Canyon Bridge.

Sector D—Offstream deposits located between Orangethorpe Avenue and La Palma Avenue in the northeastern part of Anaheim.

Sector E—Offstream deposits located near the intersection of Fee Ana Street and La Palma Avenue in Anaheim.

Sector F—Offstream deposits in the Warner Basin located near Jefferson Street and the Riverside Freeway in Anaheim.

Sector G—Offstream deposit located on the south side of the Santa Ana River near Lincoln Avenue in Anaheim.

Sector H—Hillside deposit located immediately east of Prado Dam in the Chino Hills.

Sector I—Hillside deposit located east of Gypsum Canyon in the Santa Ana Mountains.

Sector J—Instream deposit of Santiago Creek beginning near Villa Park Dam and extending downstream to approximately the Newport Freeway.

Sector K—A conglomerate deposit in upper Blind Canyon east of Villa Park Dam.

Sector L—Instream deposit located on Santiago Creek between Santiago Dam and Irvine Park.

Sector M—Instream deposit located under the Santiago Reservoir on Santiago Creek.

Sector N—Instream deposits of Santiago Creek beginning near Santiago Reservoir and extending upstream to the confluence of Williams Canyon, including a portion of Silverado Canyon.

Sector O—Offstream deposit located on the southeast side of Cota Street in Corona.

Sector P—Offstream deposits of Temescal Wash near the intersection of the Riverside Freeway and Interstate 15 near Corona.

Sector Q—Instream deposits located in Temescal Wash beginning near Magnolia Avenue and extending upstream to Cajalco Road.

Sector R—Instream deposits located in Temescal Wash beginning near the Olsen Canyon confluence and extending upstream to Lee Lake.

Sector S—Offstream deposits of the Coldwater Mayhew Fan near Glen Ivy Hot Springs.

Sector T—Instream deposits of San Juan Creek beginning near Casper Regional Park and extending downstream to approximately Ganado Road in San Juan Capistrano.

Sector U—Instream deposits of Arroyo Trabuco beginning one-half mile above Interstate 5 and extending approximately five miles upstream.

Sector V—Instream deposits of Arroyo Trabuco beginning at the Live Oak Canyon Road crossing and extending upstream for approximately two miles.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

**HISTORY**

1. New section filed 8-24-83; effective thirtieth day thereafter (Register 83, No. 35).

**§ 3550.5.** San Gabriel River, Eaton Wash, Devils Gate, and Palos Verdes Areas of the San Gabriel Valley Region, Los Angeles County.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County-Temescal Valley and San Gabriel Valley Production-Consumption Regions," is incorporated by reference into this regulation.

These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A—Offstream and instream deposits of the San Gabriel River below Morris Dam near Azusa.

Sector B—Instream deposit consisting of the flood control channel of the San Gabriel River upstream of Foothill Boulevard near Azusa.

Sector C—Instream deposits in a portion of the Santa Fe Flood Control Basin and spillway channel near Irwindale.

Sector D—Offstream and instream deposits in the western portion of the San Gabriel River Fan near Baldwin Park and Arcadia.

Sector E—Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.

Sector F—Instream deposits of Eaton Wash located in the Eaton Wash Flood Control Basin.

Sector H—Instream deposits of Arroyo Seco in the Devils Gate Reservoir area.

Sector I—Hillside deposit in the Palos Verdes Hills on Narbonne Avenue in Bent Springs Canyon.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-2763 and 2790-2791, Public Resources Code.

**HISTORY**

1. New section filed 8-24-83; effective thirtieth day thereafter (Register 83, No. 35).

**§ 3550.6.** Construction Aggregate Resources, Western San Diego County Region.

A set of maps identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Western San Diego County Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—A granitic rock deposit located in eastern Oceanside, southwest of the intersection of Highway 78 and College Boulevard, near Buena Vista Creek Canyon.

Sector B—Channel and flood-plain deposits of the Sa Luis Rey River beginning near North River Road in Oceansic and extending upstream for approximately six miles.

Sector C—Channel and flood-plain deposits of the Sa Luis Rey River from near the Highway 78 bridge upstream t approximately the Interstate 15 bridge.

Sector D—Alluvial deposits of the upper San Luis Re River, extending discontinuously from the Interstate 15 bridg upstream to the community of Rincon in Pauma Valley.

Sector E—A hillside alluvial fan deposit located north east of the San Luis Rey River, extending from the communit of Pala to Pauma Valley.

Sector F—An alluvial fan deposit located in upper Paum Valley near the community of Rincon.

Sector H—A granitic rock deposit located in Twin Oak Valley approximately three miles east of the City of Vista.

Sector I—An alluvial fan deposit extending eastward fron Lake Hodges on the San Dieguito River to the upper end o San Pasqual Valley.

Sector J—A mesa-top conglomerate deposit consisting o 4 areas located in or near the communities of Rancho Bernardo Rancho Penasquitos, Poway Mira Mesa, Tierra Santa, an Santee, and on the Miramar Naval Air Station.

Sector K—A metavolcanic rock deposit located in Mis sion Gorge on the San Diego River.

Sector M—Channel and flood-plain deposits of the uppe San Diego River from Magnolia Avenue in the City of Sante to within one mile of El Capitan Dam.

Sector N—A channel deposit of the lower Sweetwate River located near the community of Sunnyside.

Sector O—A channel deposit of the Sweetwater River lo cated at the upper end of Sweetwater Reservoir.

Sector P—A channel deposit of the Sweetwater River lo cated in upper Jamacha Valley.

Sector Q—A channel deposit of the Sweetwater River tha extends from near the Singing Hills Golf Course upstream fo a distance of approximately four miles.

Sector R—Channel and adjacent mesa deposits of the Otay River extending from near Interstate 805 upstream to approximately the head of Otay Valley.

Sector S—A metavolcanic rock deposit on Rock Mountain located on the north side of upper Otay Valley.

Sector U—Flood-plain deposits of the Tijuana River xtending from the international boundary downstream for a istance of approximately four miles.

Sector V—Conglomerate deposits located on the Border lighlands immediately south of the Tijuana River.

OTE: Authority cited: Section 2790, Public Resources Code. eference: Sections 2726, 2761-2763 and 2790-2792, Public esources Code.

ISTORY

New section filed 3-19-85; effective thirtieth day thereafter (Register 5, No. 12).

**§ 3550.7.** Construction Aggregate Resources, Claremont-pland Region.

A set of maps identifying the exact locations of the desig-ated resources areas entitled "Regionally Significant Con-ruction Aggregate Resources Areas in Claremont-Upland Pro-uction-Consumption Region" is incorporated by reference into is regulation. These maps are available from the State Min-g and Geology Board's office in Sacramento.

The construction aggregate deposits in the following eas are designated as being of regional significance:

Sector A—The annual recharge area upstream from the an Antonio Creek Flood Control Dam.

Sector B—Eight parcels south of San Antonio Creek Flood ontrol Dam in the unurbanized areas of the San Antonio Creek an, northeast of the City of Claremont. Sector B is roughly ounded by Foothill Boulevard on the south, San Antonio venue on the east, and Thompson Creek on the west.

Sector C—Four parcels in the proximal part of the ucamonga Creek Fan, north of the City of Upland. The area generally north of 19th Street, west of Carmelian Avenue, st of Euclid Avenue, and south of the San Bernardino ational Forest.

Sector D—Three parcels covering parts of the Day Creek d Deer Creek Fans between the Cities of Cucamonga and ontana. It is bounded by the San Gabriel Mountains on the rth and Highland Avenue on the south.

OTE: Authority cited: Section 2790, Public Resources Code. eference: Sections 2726, 2761-63 and 2790-92, Public Resources ode.

ISTORY

New section filed 12-3-86, effective thirtieth day thereafter (Register 8, No. 49).

**§ 3550.8.** Construction Aggregate Resources, San Bernardino Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in San Bernardino Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—Eighteen parcels on the Lytle Creek Fan in and around the City of Fontana. The larger parcels of this sector are north of Fontana; several smaller parcels are scattered to the east and south of Fontana to the Santa Ana River.

Sector B—Thirteen parcels covering the unurbanized portions of Lytle Creek Wash from north of Freeway 15, west to the downtown area of the City of San Bernardino.

Sector C—Eight parcels along the Cajon Creek Wash from the bend in the wash south of Lost Lake, southward to the confluence of Cajon Creek and Lytle Creek.

Sector D—Five parcels in a generally oval-shaped area southeast of the City of Ontario. The area is generally bounded by Freeway 10 on the south, Marlay Avenue on the north, Haven Avenue on the west, and Etiwanda Avenue on the east.

Sector E—Fourteen parcels in and along the Santa Ana River from Freeway 395, south and west to the town of Rubidoux.

Sector F—Seventeen parcels along the upper Santa Ana River and Santa Ana Wash and areas along smaller drainages merging with the Santa Ana Wash, including Warm Creek, City Creek, and Mill Creek.

Sector G—Two parcels covering parts of the San Gorgonio River alluvial fan, east of the City of Banning. Sector G extends from the mouth of Banning Canyon, southeastward to the community of Cabazon.

Sector H—The alluviated area of the Rice Canyon drainage, about one mile south of Alberhill.

Sector I—The alluvial deposits in the lower part of McVickers Canyon and the alluvial fan near the mouth of McVickers Canyon. Sector I is a few miles northeast of Lake Elsinore.

NOTE: Authority cited: Section 2790, Public Resources Code.

Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49).

**§ 3550.9.** Construction Aggregate Resources, Saugus-Newhall and Palmdale Regions.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Saugus-Newhall and Palmdale Production-Consumption Region" is incorporated by reference into this regulation.

These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—Portions of the Santa Clara River and its immediate flood plain extending from the Los Angeles County Line to Bee Canyon, parts of Castiac Creek, and Oak Spring Canyon.

Sector B—An area bounded by Bee Canyon on the northwest, the Santa Clara River to the south, and extending approximately one mile east of the Agua Dulce Canyon; and a triangle-shaped area with a boundary extending from the mouth of Pole Canyon west along an old railroad grade, south to Oak Spring Canyon then northeast back to the mouth of Pole Canyon.

Sector C—A triangular area beginning at the mouth of Pole Canyon, running southeast along the canyon to Oak Spring Canyon then southwest to Coyote Canyon, turning northeast to close the triangle back at the mouth of Pole Canyon.

Sector D—An area north of the California Aqueduct whose eastern boundary is along Little Rock Wash then turns west approximately one mile north of Boundary Avenue. The western boundary runs south near 47th Street and Fort-Tejon Road.

Sector E—An area of the Big Rock Wash bounded by the aqueduct on the south, North 165th Street on the east, Palmdale Boulevard on the north, and 116th Street on the west.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

HISTORY

1. New section filed 12-3-86, effective thirtieth day thereafter (Regis 86, No. 49).

**§ 3550.10.** Construction Aggregate Resources, South S Francisco Bay Region.

A set of maps identifying the exact locations of the des nated resources areas entitled "Regionally Significant Cc struction Aggregate Resources Areas in South San Francis Bay Production-Consumption Region" is incorporated by r erence into this regulation. These maps are available from t State Mining and Geology Board's office in Sacramento.

Sector A—Aggregate deposit located in Amador Vall and Livermore Valley areas in the Cities of Pleasanton a Livermore in Alameda County.

Sector B—Alluvial deposit consisting of six parcels alo Arroyo del Valle on the southwestern edge of Livermore Alameda County.

Sector C—Alluvial deposit consisting of six parc located along Arroyo Mucho on the eastern edge of Livermc in Alameda County.

Sector D—Greenstone deposit located on Apperson Rid east of Sunol Valley in Alameda County.

Sector E—Alluvial deposit consisting of five parcels Sunol Valley in southern Alameda County.

Sector H—Elongated sandstone deposit located on t foothills of the Cities of Fremont and Union City.

Sector I—Elongated series of parcels consisting of a sar stone deposit along the foothills east of the Cities of Fremc and Milpitas.

Sector J—Alluvial deposit located near Mowry Landi on the southern edge of Fremont in Alameda County.

Sector K—Alluvial deposit located west of Highway on the southern edge of Fremont in Alameda County.

Sector L—Alluvial deposit consisting of three parc located between the Nimitz Freeway, Alameda Creek, the Co ote Hills, and Jarvis Avenue in the northwestern portion of t City of Fremont in Alameda County.

Sector M—Located at the southern end of the Coyote Hi on the west side of Fremont in Alameda County.

Sector N—Greenstone deposit in the foothills east of t City of Hayward in Alameda County.

Sector O—Consists of greenstone and rhyolite located in the Berkeley Hills west of Lake Chabot in Alameda County.

Sector P—Consists of rhyolite located north of the Oak Knoll Naval Hospital in the Berkeley Hills.

Sector S—Mount Zion and a smaller adjacent hill in central Contra Costa County.

Sector T—Consists of basalt and andesite located at the south end of Gudde Ridge in the City of Moraga in southwestern Contra Costa County.

Sector U—Consists of basalt and andesite located on a small ridge southwest of the City of Orinda in Contra Costa County.

Sector V—Consists of basalt and andesite located on a small ridge southwest of the city of Orinda in Costa Contra County.

Sector W—Sandstone and shale deposit consisting of three parcels located on the west side of the City of Richmond in Contra Costa County.

Sector X—The Guadalupe Quarry property on the north side of Mount San Bruno adjacent to the City of Brisbane in San Mateo County.

Sector Y—Limestone and greenstone deposits located west of Pacifica near Rockway Beach in northern San Mateo County.

Sector Z—Greenstone deposit located in the Los Altos Hills in northwestern Santa Clara County.

Sector BB—Limestone deposit located west of the City of Cupertino on upper Permanente Creek in Santa Clara County.

Sector CC—Greenstone deposit located northwest of Stevens Creek Reservoir on the western edge of the City of Cupertino in Santa Clara County.

Sector DD—Conglomerate deposit located northwest of Stevens Creek Reservoir west of the City of Cupertino in Santa Clara County.

Sector EE—Located immediately northwest of the intersection of Capitol Expressway and Monterey Road (highway 82) on the City of San Jose in Santa Clara County.

Sector GG—Sandstone deposit located approximately four miles south of Brentwood in eastern Contra Costa County.

Sector HH—Granitic rock deposit located northwest of the City of Half Moon Bay in western San Mateo County.

Sector II—Sandstone and siltstone deposit located in Limekiln Canyon east of Lexington Reservoir in southwestern Santa Clara County.

Sector LL—Sandstone deposit located in the foothills east of the City of Fremont in Alameda County.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

**HISTORY**

1. New section filed 12-3-86, effective thirtieth day thereafter (Register 86, No. 49).

**§ 3550.11.** Construction Aggregate Resources, North San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in North San Franciso Bay Production-Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—Channel and floodplain alluvium deposits located in Alexander Valley of Sonoma County; extends from approximately the City of Cloverdale downstream to a point 3.25 miles southeast of the community of Jimtown.

Sector B—Alluvial deposits of the middle reach of the Russian River and a small portion of Dry Creek 0.5 miles west of Healdsburg. The sector extends from the City of Healdsburg down the Russian River to a point near the Wohler Road bridge.

Sector C—Alluvial deposits restricted to two small portions of Sonoma Creek. The first is about one mile south of Sonoma State Hospital, and the second is about one mile south of Boyes Hot Springs.

Sector D—Consists of Novato Conglomerate deposits located near Black Point in eastern Marin County.

Sector E—A small basalt deposit located on Petaluma Hill near the southeastern edge of the City of Petaluma in Sonoma County.

Sector F—A small aggregate deposit located west of the City of Cotati on Stony Point Road in Sonoma County.

Sector G—Three contiguous parcels consisting of metamorphosed graywacke and greenstone deposits located east of the City of Vallejo at the southern end of Sulphur Springs Mountain.

Sector H—Aggregate deposit located southeast of the City of Napa in Napa County.

Sector I—Metamorphosed sandstone deposit located on Point San Pedro in eastern Marin County.

Sector J—A large block of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector K—Two areas east of Dunbar Union School and northeast of the community of Glen Ellen in Sonoma County.

Sector L—Small greenstone and pillow lavas deposits located in Millerton Gulch approximately 3.5 miles north of the community of Point Reyes Station in Marin County.

Sector M—A small serpentinite deposit located in upper Bowman Canyon on Burdell Mountain approximately three miles northwest of Novato in Marin County.

Section N—A small siltstone deposit located approximately one mile west of the community of Forestville and south of Highway 116.

Sector O—A small siltstone deposit located approximately one mile west of the community of Forestville and north of Highway 116.

Sector P—Located along the west side of Green Valley approximately three miles southwest of Forestville in Sonoma County.

Sector Q—Sandstone deposit located in Cheney Gulch approximately 2.5 miles east of Bodega Bay in western Sonoma County.

Sector R—Located approximately 2.5 miles southeast of the City of Petaluma in Sonoma County.

Sector S—Located approximately five miles west of Petaluma on Petaluma Creek Road in Sonoma County.

Sector T—Sandstone deposits located 1.5 miles north of Duncan Mills on Austin Creek in western Sonoma County.

Sector U—Located at the confluence of the South Fork and Wheatfield Fork of the Gualala River in northwestern Sonoma County.

Sector V—Consists of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector W—Located on Porter Creek Road approximately four miles east of the community of Mark West Spring: eastern Sonoma County.

Sector X—Consists of sandstone and andesite loca along Highway 121 approximately 2.5 miles north of Se Point in southeastern Sonoma County.

Sector Y—Shale deposit located approximately 2.5 m west of Healdsburg in Sonoma County.

NOTE: Authority cited: Section 2790, Public Resources Co Reference: Sections 2726, 2761-63 and 2790-92, Public Resour Code.

**HISTORY**

1. New section filed 12-3-86, effective thirtieth day thereafter (Regis 86, No. 49).

**§ 3550.12.** Construction Aggregate Resources, Monte Bay Region.

A set of maps identifying the exact locations of the des nated resources areas entitled "Regionally Significant Cc struction Aggregate Resources Areas in Monterey Bay Pr duction-Consumption Region" is incorporated by reference ir this regulation. These maps are available from the State Mi ing and Geology Board's office in Sacramento.

The construction aggregate deposits in the followi areas are designated as being of regional significance:

Sector A—Consists of quartz diorite located on B Lomond Mountain southwest of Felton in Santa Cruz Coun

Sector B—Consists of sandstone deposit divided into thr large non-contiguous parcels located east of Felton in San Cruz County.

Sector C—Sandstone deposit located near Wilder Ranc west of the City of Santa Cruz.

Sector D—Alluvial deposit located in a portion of Uv Creek located west of Gilroy in southern Santa Clara Count

Sector E—Channel and floodplain deposits located in long portion of the San Benito River extending from low Tres Pinos Creek west to State Highway 101 in central Sa Benito County.

Sector F—Two elongated deposits located near the cor munity of Aromas in western San Benito County, extendin from State Highway 101 northwesterly to Pajaro Gap on Higl way 129, a distance of approximately five miles.

Sector G—The Natividad Quarry located northeast of linas in Monterey County.

Sector H—Sand deposits in two separate but adjacent rcels located along the southern portion of Monterey Bay, rth of the City of Marina.

Sector I—A large sand dune area located on the northern ge of the City of Marina in Monterey County.

Sector J—Quartz diorite located on Huckleberry Hill on e east side of the community of Pebble Beach in Monterey unty.

Sector K—Stream channel and floodplain deposits con- ting of a one mile long portion of the lower Carmel River in e Carmel Valley of Monterey County.

Sector L—Consists of quartz diorite and siltstone located upper Soquel Creek on the east side of Sugarloaf Mountain Santa Cruz County.

Sector M—Fluvial sand and gravel deposit located on eedom Boulevard approximately seven miles northwest of atsonville in southern Santa Cruz County.

Sector N—Located at the confluence of Chalone Creek th the Salinas River in southern Monterey County, approxi- ately three miles southwest of the community of Greenfield, rtheast of the Southern Pacific Railroad tracks.

Sector O—Located at the confluence of Chalone Creek th the Salinas River in southern Monterey County, approxi- ately three miles southwest of the community of Greenfield.

Sector P—Stream channel and floodplain deposits of San renzo Creek located in the foothills of the Gabilan Range in uthern Monterey County, approximately six miles northwest King City.

Sector U—Stream channel and floodplain deposits of per Pacheco Creek located near Bells Station in southeast- n Santa Clara County.

TE: Authority cited: Section 2790, Public Resources Code. ference: Sections 2726, 2761-63 and 2790-92, Public Resources de.

STORY

New section filed 12-3-86, effective thirtieth day thereafter egister 86, No. 49).

**§ 3550.13.** Construction Aggregate Resources, Fresno oduction-Consumption Region.

A set of maps identifying the exact locations of the designated resource areas entitled "Regionally Significant Construction Aggregate Resource Areas in the Fresno Production-Consumption Region," July 1988, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector K—Alluvial deposits of the Kings River between Avocado Lake on the northeast and the Southern Pacific Railroad tracks on the southwest.

Sector S—Portions of the San Joaquin River floodplain between Friant Dam and Highway 99.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761-63 and 2790-92, Public Resources Code.

**HISTORY**

1. New section filed 9-16-88; operative 10-16-88 (Register 88, No. 39).

**§ 3550.14.** Construction Aggregate Resources, Stockton-Lodi Production-Construction Region.

A map identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Stockton-Lodi Production-Consumption Region, 1989," is incorporated by reference into this regulation. This map is available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—Aggregate deposits on the alluvial fan created by Corral Hollow Creek, situated south of the City of Tracy.

Sector B—Aggregate deposit on the alluvial fan created by Lone Tree Creek. Deposit extends from just west of Interstate 580 near the base of the Coast Range hills northwest to the alignment of Interstate 5.

Sector C—Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

Sector D—Sand deposit centered on the San Joaquin River near the intersection of Highway 120 and Interstate 5 west of the City of Manteca.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2762, 2761-63 and 2790-92, Public Resources Code.

HISTORY

1. New section filed 6-29-89; operative 7-29-89 (Register 89, No. 27).

§ **3550.15.** Construction Aggregate Resources, Palm Springs Production-Consumption Region.

Two maps identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Palm Springs Production-Consumption Region, 1989 (Designation Map #89-2, Plates 1 and 2)," are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The aggregate deposits in the following areas are designated as being of regional significance:

Sector A-1—Aggregate deposits located adjacent to the southeast border of the community of Cabezon at the base of the San Jacinto Mountains.

Sector A-2—Aggregate deposits located between the Colorado River Aqueduct and the Morongo Indian Reservation.

Sector A-3—Aggregate deposits located directly south of Interstate 10 two miles east of the community of Cabazon.

Sector B-1—Aggregate deposit located at the mouth of the Whitewater Canyon north of Interstate 10.

Sector B-2—Aggregate deposit located immediately south of Interstate 10 at the intersection of Highway 62.

Sector B-3—Aggregate deposit located immediately south of Sector B-2 and east of the San Gorgonio Pass to Garnet Hill.

Sector B-4—Aggregate deposit located east of Indian Avenue and south of Garnet Hill.

Sector B-5—Aggregate deposit located adjacent to the northern border of Sector B-3 and the southern border of Interstate 10 near Garnet Hill.

Sector C—Aggregate deposit located in the Little Morongo Canyon approximately one mile north of the City of Desert Hot Springs.

Sector D—Aggregate deposit located in a small unnamed wash in the foothills of the community of Thousand Palms.

Sector E-1—Aggregate deposit located northeast of Di
Road, approximately six miles northeast of the City of In

Sector E-2—Aggregate deposit located approximately
miles northeast of the City of Indio.

Sector F—Aggregate deposit located approximately
miles northeast of the City of Indio.

Sector G—Aggregate deposit located approximately tl
miles north of the City of Indio.

Sector H-1—Aggregate deposit located approxima
four miles east of the community of Thermal.

Sector H-2—Aggregate deposit located northeast of
Coachella Canal approximately three and a half miles eas
the community of Thermal.

Sector H-3—Aggregate deposit located southwest of
Coachella Canal approximately three miles east of the cc
munity of Thermal.

NOTE: Authority cited: Section 2790, Public Resources Co
Reference: Sections 2762, 2761-63 and 2790-92, Public Resour
Code.

HISTORY

1. New section filed 11-13-89; operative 12-13-89 (Register
No. 46).

## Article 4. Designation Appeal Procedures

§ **3625.** Purpose of Regulations.

The regulations contained in this article govern procedu
affecting appeals to the Board on the approval or denial o
permit to conduct surface mining operations by a city or coun
hereinafter referred to as the "lead agency," in an area des
nated as containing mineral deposits of statewide or regio
significance pursuant to the provisions of Section 2775, Pu
lic Resources Code (PRC 2775).

NOTE: Authority cited: Section 2775, Public Resources Coc
Reference: Section 2775, Public Resources Code.

§ **3627.** Determination of Jurisdiction.

The Chairman of the Mining and Geology Board, or t
Chairman's designee, shall determine whether the appeal
within the jurisdiction of the Board for purposes of heari
the appeal, and determine whether the appellant's challen
raises substantial issues with respect to the action taken to a
prove or deny the permit to conduct surface mining operatio
by the lead agency. If the Chairman finds, based upon the cr
teria stated in (a) plus (b) below, that the appeal raises no su

ntial issues with respect to the action taken by the lead agency approve or deny the permit to conduct surface mining erations in a designated area, he or she shall refuse to grant earing on an appeal. In making this determination, the Chairan shall consider the following:

(a) Whether the appeal raises any issues which legally n be addressed by the Board within the limits of the Public sources Code and the rules of the Board; and

(b) Whether the appeal specifically relates to the approval denial of a permit to conduct surface mining operations in area designated by the Board as being of statewide or gional significance.

The Chairman of the Board shall make such determinan within 15 days of receipt of the information required by ction 3626 of this article, and shall notify the appellant and e lead agency of the determination by certified mail.

**§ 3628.** Administrative Record.

(a) Once a determination has been made that an appeal is thin the jurisdiction of the Board for purposes of hearing e appeal, the appellant shall submit three certified copies for e complete administrative record, which shall include, but t be limited to, all of the following information.

(1) Project application and complete, detailed descripn of the proposed project, including conditions added for tigation of environmental impacts;

(2) Location and site description maps submitted to the d agency as part of the application process;

(3) All reports, findings, communications, correspondnce, and statements in the file of the lead agency relating to project; and

(4) Written transcripts of all public hearings related to decision of the lead agency.

(b) In cases where the appellant is faced with substantial lay in gathering the administrative record due to internal ocedures of the lead agency, the appellant shall so notify the ard in writing and the Board may require the lead agency to mediately submit three copies of the administrative record the Board for purposes of hearing the appeal without undue lay.

(c) Failure to produce the administrative record upon quest of the Board within 30 days shall be deemed grounds remand the appeal to the lead agency for reconsideration.

TE: Authority cited: Section 2772, 2773, Public Resources Code. ference: Section 2775, Public Resources Code.

**§ 3629.** Hearing Procedures-Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 30 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. In no case shall the hearing be scheduled beyond 180 days of the receipt of the complete administrative record without the concurrence of the Board, the appellant, and the project proponent (when not the same person as the appellant). The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

**§ 3630.** Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3634 of these regulations.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

**§ 3631.** Hearing Procedures—Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency, the appellant, and the project proponent (when not the same person as the appellant);

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily posted in the city or county jurisdiction within which the proposed surface mining operations are to take place.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed surface mining operation, a brief description of the location of the operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement that the appellant has appealed the lead agency's decision to approve or deny the project and has requested the Board hear the appeal;

(4) A statement inviting the appellant, the lead agency, the project proponent (when not the same person as the appellant), and the public to make statements at the hearing regarding the decision of the lead agency; and

(5) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

**§ 3632.** Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3626 and 3628 of this article.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

**§ 3633.** Hearing Procedures—Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the project proponent (when not the same person as the appellant);

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the appellant; and

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded either electronically or by other convenient means.

NOTE: Authority cited: Section 2775, Public Resources C Reference: Section 2775, Public Resources Code.

**§ 3634.** Hearing Procedures—Determination.

Following the public hearing, the Board shall deterr whether, upon the record before it, the lead agency deci was made based on substantial evidence in light of the w record. Notification of the Board's determination shall be n by certified mail to the appellant, the lead agency, and project proponent (when not the same person as the appell within 15 days following the regular business meeting of Board at which the decision is made.

NOTE: Authority cited: Section 2775, Public Resources C Reference: Section 2775, Public Resources Code.

## Article 5. Reclamation Plan Appeals

**§ 3650.** Filing of Intent to Appeal.

Any surface mining operator filing an appeal to the Bo pursuant to PRC 2770 shall, within 15 days of exhausting rights to appeal in accordance with the procedures of the l agency, file an intent to appeal by submitting the follow information:

(a) A map indicating the exact location of the surface m ing operation, including township and range.

(b) A copy of all documents which together were propo to serve as the reclamation plan and which were submitte the lead agency for review and approval pursuant to PRC 27

(c) Written statements with supporting documentat indicating the basis for the appellant's challenge of:

(1) The lead agency's action to deny approval of the r lamation plan submitted pursuant to PRC 2770; or

(2) The lead agency's failure to act according to due p cess; or

(3) The lead agency's failure to act within a reasona period of time of submittal of a completed application.

(d) Copy of notice to the lead agency that the appell intends to file an appeal to the Board.

NOTE: Authority cited: Section 2770, Public Resources Co Reference: Section 2770(c)-(e), Public Resources Code.

**§ 3651.** Determination of Jurisdiction.

The Chairman of the Mining and Geology Board, or t Chairman's designee (Board Member), shall determine whet the appeal is within the jurisdiction of the Board for purpos

hearing the appeal, and determine whether the appellant's allenge raises substantial issues related to the lead agency's view of reclamation plans submitted for surface mining erations pursuant to the provisions of PRC 2770. If the Chairan finds, based upon the criteria stated in (a) plus (b) below, at the appeal raises no substantial issues with respect to the d agency's review of reclamation plans submitted for vested rface mining operations pursuant to the provisions of PRC 70, he or she shall refuse to grant a hearing on the appeal. In aking these determinations, the Chairman shall consider the lowing:

(a) Whether the appeal raises any issues which can gally be addressed by the Board within the limits of PRC 70(e) and the rules of the Board; and

(b) Whether the appeal specifically relates to the lead ency's review of reclamation plans submitted for vested sure mining operations pursuant to the provisions of PRC 2770.

TE: Authority cited: Section 2770, Public Resources Code. ference: Section 2770(c)-(e), Public Resources Code.

**§ 3652.** Administrative Record.

(a) Once the appellant has been notified that a determinan has been made that an appeal is within the jurisdiction of Board for purposes of hearing the appeal, the appellant all submit three certified copies of the complete administrae record, which shall include, but not be limited to, all of following information:

(1) All documents which together are proposed to serve the reclamation plan and which were submitted to the lead ency for review and approval pursuant to PRC 2770;

(2) Location and site description maps submitted to the d agency as part of the reclamation plan application;

(3) Environmental documentation prepared pursuant to provisions of the California Environmental Quality Act EQA), PRC Sections 21000 et seq., including conditions ded for mitigation of environmental impacts, if any;

(4) A copy of the lead agency surface mining and reclation ordinance under which the reclamation plan may have en judged pursuant to PRC 2770;

(5) All reports, findings, communications, correspondence, d statements in the file of the lead agency relating to the posed reclamation plan; and

(6) Written transcripts of all public hearings related to the d agency review for approval of the reclamation plan purant to PRC Section 2770.

(b) Should the lead agency choose not to complete an environmental review of the project pursuant to the provisions of CEQA, or should the Board deem such review inadequate under the provisions of CEQA, the record will not be considered complete until an adequate CEQA review is completed.

(1) In those instances in which the Board is the CEQA lead agency, the Board shall be responsible for the preparation of new or supplemental environmental documents.

(2) Pursuant to PRC Section 15045, appellants shall bear any costs relating to preparation and completion of any required environmental documents.

(c) If the appellant is unable to obtain the administrative record from the lead agency within 10 working days, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(d) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days shall be deemed grounds for Board action based on information provided solely by the appellant.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e) and 21000 et seq., Public Resources Code; and Section 15000 et seq., California Code of Regulations.

**§ 3653.** Technical Review for Adequacy of Reclamation Plan.

(a) The Board may consult with the technical staff of the Department of Conservation's Mine Reclamation Program, for determination of the adequacy of reclamation plans prepared for surface mining operations that are appealed to the Board. Preliminary determination of technical adequacy shall be based on, but shall not be limited to, the following:

(1) Substantial compliance with the requirements of PRC Sections 2772 and 2773;

(2) Substantial compliance with the requirements of Board rules and regulations (14 CCR 3500 et seq);

(3) Substantial compliance with the reclamation provisions of the lead agency surface mining and reclamation ordinance as certified by the Board pursuant to the provisions of PRC 2774; and

(4) Whether the proposed reclamation plan is technically feasible given the scope of the mining operations.

(b) The determination of whether substantial compliance with PRC Sections 2772 and 2773, 14 CCR Sections 3500 et seq, and the Board-certified lead agency surface mining and

reclamation ordinance have been met shall be based on whether all elements of these provisions that are necessary to ensure viable, planned reclamation of a particular site are included and are technically feasible so as to satisfy the objectives of the Surface Mining and Reclamation Act. For example, a description of revegetation efforts might not be necessary for a pit to be used as a landfill, just as a description of final slope angles may not be necessary for a gravel bar skimming operation. In other sites, however, such information may be critical. In all cases, a site visit by the technical staff of the Department of Conservation's Mine Reclamation Program shall be made before substantial compliance is determined.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e) and 2774, Public Resources Code.

**§ 3654.** Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 45 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board. The Board shall endeavor to schedule such public hearings in the jurisdiction from which the appeal originated, but may otherwise schedule such appeals to be heard in Sacramento.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

**§ 3655.** Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two members of the Board to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3659 of these regulations.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

**§ 3656.** Hearing Procedures—Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency and to the appellant;

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mail list; and

(4) Posting of the notice in a place where notices are c tomarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed reclamation plan, a bi description of the location of the surface mining operation which the reclamation plan was prepared by reference to a commonly known landmarks in the area, and a simple locat map indicating the general location of the operation;

(3) A statement that the appellant has appealed the le agency's decision to deny approval of the reclamation plan. that the lead agency is being challenged based on failure to according to due process, or that the lead agency is being ch lenged based on failure to act within a reasonable period time;

4) A statement explaining that the Board may approve deny approval of the reclamation plan, and that if the reclan tion plan is denied approval, it shall be returned to the ope tor who then must revise it and resubmit the revised plan to t lead agency within 30 days of receipt from the Board;

5) A statement inviting the appellant, the lead agen and the public to make statements at the hearing regarding t action (or inaction) of the lead agency; and

6) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2770, Public Resources Coc Reference: Sections 2770(c)-(e), Public Resources Code.

**§ 3657.** Hearing Procedures—Record.

The record before the Board at the public hearing shall the administrative record submitted pursuant to Sections 36 and 3652 of this article, together with any findings from t technical review pursuant to Section 3653 of this article, a any CEQA documents prepared pursuant to Section 3652 this article.

NOTE: Authority cited: Section 2770, Public Resources Coc Reference: Sections 2770(c)-(e) and 2774, Public Resources Coc

**§ 3658.** Hearing Procedures—Sequence.

(a) The public hearing shall normally proceed in the follo ing manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the appellant; and

(6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presentations and accept written statements in lieu of oral statements. Written statements must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), Public Resources Code.

**§ 3659.** Hearing Procedures—Determination.

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed reclamation plan substantially meets the requirements of PRC 2772 and 2773 and the lead agency surface mining and reclamation ordinance, and the provisions of Section 3654 of this article. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision is made. In cases where the reclamation plan is not approved, deficiencies shall be noted in the correspondence notifying the appellant and the lead agency of the Board's decision, and the operator shall be put on notice that deficiencies must be corrected and a revised reclamation plan filed with the lead agency within 30 days.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)-(e), 2772, 2773 and 2774, Public Resources Code.

## Article 6. Mineral Resource Management Policies

**§ 3675.** Definitions. The following definitions as used herein shall govern the interpretation of these regulations:

Compatible Land Use. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

Incompatible Land Use. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2761-2762, Public Resources Code.

**§ 3676.** Mineral Resource Management Policies.

Lead agency mineral resource management policies adopted pursuant to the provisions of PRC Section 2762 shall include but not be limited to, the following:

(a) A summary of the information provided by the classification and/or designation reports, or incorporation of PRC Sections 2710 et seq., and state policy by reference, together with maps of the identified mineral deposits or incorporation by reference of the classification and/or designation maps provided by the Board.

(b) Statements of policy in accordance with the provisions of PRC Section 2762(a).

(c) Implementation measures that shall include:

(1) Reference in the general plan of the location of identified mineral deposits, and a discussion of those areas targeted for conservation and possible future extraction by the lead agency.

(2) Use of overlay maps or inclusion of information on any appropriate planning maps to clearly delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction.

(3) At least one of the following:

(A) Use of special purpose overlay zones, mineral resource/open space zoning, or any other appropriate zoning that identifies the presence of identified mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.

(B) Record, on property titles in the affected mineral resource areas, a notice identifying the presence of identified mineral deposits.

(C) Impose conditions upon incompatible land uses in and surrounding areas containing identified mineral deposits for the purpose of mitigating the significant land use conflicts prior to approving a use that would otherwise be incompatible with mineral extraction.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757 and 2761-63, Public Resources Code.

## Article 7. Financial Assurances Appeal Procedures

**§ 3680.** Purpose of Regulations.

The regulations contained in this article govern procedures for appeals to the State Mining and Geology Board (the Board) concerning financial assurances for reclamation of existing surface mining operations under section 2770 of the Public Resources Code.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

**§ 3681.** Filing of Intent to Appeal.

Any person filing an appeal to the Board pursuant to section 2770 of the Public Resources Code concerning financial assurances for reclamation shall, within 15 days of exhausting his or her right to appeal in accordance with the procedures of the lead agency, file a notice of intent to appeal by submitting the following information:

(1) A map indicating the exact location of the surface mining operation, including township and range.

(2) A copy of all documents which together comprise the financial assurances for reclamation which are the subject of the appeal.

(3) Written statements, with supporting documentation, indicating the basis for the appellant's challenge of the action or inaction by the lead agency concerning financial assurances for reclamation.

(4) Copy of the notice to the lead agency that the appellant intends to file an appeal with the Board.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

**§ 3682.** Determination of Jurisdiction.

The Chairman of the Board, or the Chairman's designee (Board Member), shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises any substantial issues related to the review by the lead agency of financial assurances for reclamation for existing surf mining operations pursuant to Public Resources Code sec 2770. If the Chairman finds, based on the criteria stated in through (c) below, that the appeal raises no substantial iss with respect to the review by the lead agency of finan assurances for existing surface mining operations under P lic Resources Code section 2770, he or she shall refuse to g a hearing on the appeal. In making this determination, the Ch man shall consider the following:

(a) Whether the appeal raises any issues which legally be addressed by the Board within the limits of Pub Resources Code section 2770 and the rules of the Board;

(b) Whether the appeal specifically relates to the l agency's review of financial assurances submitted for exist surface mining operations pursuant to the provisions of Pul Resources Code section 2770; and

(c) Whether the appellant exhausted his or her appeal re edies before the lead agency.

NOTE: Authority cited: Sections 2755 and 2770, Public Resour Code. Reference: Section 2770, Public Resources Code.

**§ 3683.** Limit on Number of Filings of Appeal.

Upon a finding by the Chairman, or the Chairman's d ignee (Board Member), that the appeal is not within the ju diction of the Board, the appellant may refile the notice intent to appeal, once only, with the identified informat needed to complete the appeal, within 21 days of receipt the letter of denial of the original notice of intent to appea

NOTE: Authority cited: Sections 2755 and 2770, Public Resour Code. Reference: Section 2770, Public Resources Code.

**§ 3684.** Administrative Record.

(a) Once the appellant has been notified that a determi tion has been made that an appeal is within the jurisdiction the Board for purposes of hearing the appeal, the appell shall submit three certified copies of the complete administ tive record, which shall include, but shall not be limited to, of the following information:

(1) A copy of the approved reclamation plan for t mining operation and any permit conditions or Califor Environmental Quality Act mitigations which pertain to rec mation for which the financial assurances for reclamation a proposed;

(2) A copy of the documents comprising the financ assurances or the proposed financial assurances for reclam tion which were submitted to the lead agency for review a approval pursuant to Public Resources Code section 2770;

(3) Location and site description maps submitted to the ad agency as part of the reclamation plan;

(4) A detailed estimate of the cost of the reclamation, in cordance with the approved reclamation plan, of the lands maining disturbed and/or to be disturbed by the surface min- g operation in the applicable twelve (12) month period, gether with a map clearly delineating the boundaries of those ids;

(5) All reports, findings, communications, correspondence d statements in the file of the lead agency relating to the ancial assurances in question;

(6) Written transcripts of all public hearings related to the d agency's review of the financial assurances.

(b) Failure of the appellant to request the administrative ord from the lead agency within 21 days of receiving the tice stating the Board's acceptance of the appeal, may be emed grounds for dismissal of the appeal.

(c) If the appellant is unable to obtain the administrative ord from the lead agency within 10 working days after sub- ssion of the request for the record, the appellant shall so ify the Board in writing. The Board may then require the d agency to immediately submit three certified copies of administrative record to the Board for purposes of hearing appeal without undue delay.

(d) Failure of the lead agency to produce the administra- e record upon request of the Board within 30 days may be emed grounds for Board action based on information pro- ed solely by the appellant.

(e) Following production of the administrative record by lead agency, failure of the appellant to produce the admin- ative record upon the request of the Board within 21 days y be deemed grounds for dismissal of the appeal.

TE: Authority cited: Sections 2755 and 2770, Public Resources de. Reference: Section 2770, Public Resources Code.

**§ 3685.** Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an peal no later than 45 days from the filing of the complete ministrative record, or at such time as may be mutually agreed n by the Board and the appellant. The hearing may be sched- d as part of a regular business meeting of the Board or may conducted by a committee of the Board.

TE: Authority cited: Sections 2755 and 2770, Public Resources de. Reference: Section 2770, Public Resources Code.

**§ 3686.** Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two Board members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at a regular business meeting for a decision of the full Board consistent with the procedures set forth in section 3690 of these regulations.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

**§ 3687.** Hearing Procedures—Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency and to the appellant;

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Description of the financial assurances for reclamation, identification of the surface mining operation for which the financial assurances for reclamation were provided, a brief description of the location of the surface mining operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

3) A statement of the grounds for the appeal;

4) A statement that the Board may approve or deny approval of the financial assurances for reclamation;

5) A statement that if the Board denies approval of the financial assurances, they shall be returned to the mine operator who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the Board, to correct the noted deficiencies and submit the revised financial assurances to the lead agency for review and approval;

(6) A statement inviting the appellant, the lead agency, and the public to provide testimony and evidence at the hearing regarding the action or inaction of the lead agency; and

(7) The time, date, and location of the public hearing.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

**§ 3688.** Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to sections 3681 and 3684 of this article.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

**§ 3689.** Hearing Procedures—Sequence.

(a) The public hearing shall normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the appellant; and

(6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Written statements shall be submitted to the Board at least ten days prior to the hearing.

(d) The public hearing shall be recorded.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

**§ 3690.** Hearing Procedures—Determination.

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed or existing financial assurances for reclamation substantially meet the applicable requirements of Public Resources Code sections 2770, 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of section 2774. Financial assurances determined to meet these requirements shall be approved. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision was made. In cases where t financial assurances for reclamation are not approved, de ciencies shall be noted in the correspondence notifying t appellant and the lead agency of the Board's decision. T appellant shall be granted, once only, a period of 30 days, o longer period mutually agreed upon by the operator and t Board, to correct the noted deficiencies and submit the revis financial assurances for reclamation to the lead agency review and approval.

NOTE: Authority cited: Sections 2755 and 2770, Public Resourc Code. Reference: Sections 2770 and 2774, Public Resources Co

## Article 8. Fees Schedule

**§ 3695.** Definitions.

The following definitions shall govern the interpretati of these regulations:

"Produced Minerals" means minerals extracted at the s of the mining operation, and either:

(a) sold, given or otherwise moved off the site of t operation, as defined in the approved reclamation plan, or;

(b) used onsite for production of completed products (e cement, bricks, asphaltic concrete, etc.).

Stockpiles of mineral products that remain on the site, defined in the lead agency approved reclamation plan, are r produced minerals for purposes of these regulations.

"Primary Mineral Commodity Produced" means the pr duced mineral that provides the highest dollar values sales f the operation.

"Board" means State Mining and Geology Board.

As used in Section 3697 and 3699 "Mining Compan means any entity, corporation, partnership, parent or holdi company. Any subsidiaries of the above are deemed to be pa of the mining company.

As used in Section 3699, "Gross Income" means income from whatever source derived as defined by, a determined in accordance with, Section 61 of the Internal Re enue Code, Title 26, U.S.C.S.

"Aggregate Products" means decomposed granite, sa and gravel, slag, or stone.

"Industrial Minerals" means borates, cinders, clay, diat mite, dolomite, gypsum, iron ore, lime, limestone, perlite, pur ice, rare earth elements, saline compounds, salt, shale, silic specialty sand, abrasives, asbestos, barite, bituminous roc decorative rock, dimension stone, feldspar, fluorite, gemston

aphite, kyanite, lignite, lithium, magnesite, mica, olivine, at, phosphate, potash, pyrophyllite, quartz crystal, sea shells, cite, talc, vermiculite, wollastonite, zeolites, and zircon.

"Gold, Silver, and Precious Metals" means gold (lode), ld (placer), platinum group metals, and silver.

"Base Metals and Other Metals" means antimony, arsenic, romite, copper, lead, manganese, mercury, molybdenum, kel, pyrite, tin, titanium, tungsten, uranium, vanadium, and c.

TE: Authority cited: Sections 2207(d)(1)-(2), Public Resources de. Reference: Sections 2207 (d)(1)-(2) and 2207(f), Public sources Code.

§ **3696.** Operations Subject to Fees.

(a) Each surface mining operation, as defined in Public sources Code Sections 2719, 2727.1, 2735, and California de of Regulations, Title 14, Section 3501, unless exempted Public Resources Code Section 2714, shall be assessed an nual reporting fee according to the schedule established rsuant to in Section 3698 each May 1 following the report- calendar year.

(b) In addition to the annual reporting fee, each surface ning operation that is newly permitted shall be assessed an ial reporting fee according to the schedule in Section 3698 his article.

TE: Authority cited: Section 2207, Public Resources Code. erence: Section 2207, Public Resources Code.

§ **3697.** Fees Due and Delinquent.

(a) The annual reporting fee and Mining Operation nual Report (MRRC-2) are due and payable to the Depart- nt of Conservation not later than July 1 for the prior report- year, by the owner or operator of record on the preceding cember 31. The initial reporting fee for a new surface ning operation, together with an initial report, are due and able to the Department of Conservation not later than thirty ) days after permit approval. An owner or operator of a face mining operation submitting an annual reporting fee annual report after July 1, or more than thirty (30) days r permit approval, shall be assessed a penalty fee and erest as provided in Public Resources Code Section 2207 and (d)(5).

(b) Except as otherwise provided in (c), for the purposes his article, surface mining operations are deemed to be dis- te operations per each reclamation plan required.

(c) Multiple site surface mining operations are deemed to those active surface mining operations which meet all of following criteria:

(1) One or more surface mining operations are operated on one or more sites by a single operator or mining company;

(2) The total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity product is not precious metals;

(3) All of the sites included are active;

(4) All of the operator or company's entire active surface mining operations located in the State of California are tied to, or located on, the listed sites; and

(d) In addition to the criteria provided in (c), multiple site mining operator's submittal of the annual report form (Mining Operation Annual Report, Form MRRC-2) shall be accompanied by a multiple site form (Multiple Site Single Fee Request, Form MRRC-4M) supplied by the Department of Conservation.

NOTE: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

§ **3698.** Fees Calculation.

(a) The annual reporting fee for a multiple site surface mining operation shall be two thousand dollars ($2000).

(b) The annual reporting fee for surface mining operations which are no longer in operation with no intent to resume, which had no mineral production in the reporting calendar year, and:

(1) Which did not complete reclamation during the reporting calendar year shall be $50; or

(2) Which completed reclamation during the reporting calendar year shall be $50. Proof of completion of reclamation, approved by the lead agency, shall be submitted with this fee.

(c) Except as otherwise provided, the annual reporting fee for surface mining operations shall be calculated on the total primary mineral commodity produced in the reporting calendar year. A factor to determine the amount of fee adjustments shall be calculated according to the following formula:

$$[(ATRY) - (ATPY))/(ATPY)] = Factor$$

Where: Adjusted Total (AT) equals the Amount Requested by the Director, less a projected amount from fixed fees set in CCR § 3698 (a)(b)(d)(e) and CCR § 3699, and less a projected amount from mine operations subject to the maximum fee amount of $2,000;

Where: ATRY is the Adjusted Total for the current "Reporting Year;"

Where: ATPY is the Adjusted Total for the "Prior Year;"

The new Fee Amount for each category is determined by the following formula (calculated amounts cannot be less than $50 or more than $2,000, and may be rounded to the nearest $5 (five dollars):

Formula 1: Current Year Reporting Fee = Prior Year Reporting Fee times (1 + Factor) if Factor is positive;

Formula 2: Current Year Reporting Fee = Prior Year Reporting Fee times (1 - Factor) if Factor is negative.

(1) Operations where the primary mineral commodity produced is either aggregate products or industrial minerals shall be assessed a fee as follows:

| Tons | Fee in Dollars |
|---|---|
| 0 - 100 | Formula 1 or 2 (not less than $50) |
| >100 - 1,000 | Formula 1 or 2 |
| >1,000 - 10,000 | Formula 1 or 2 |
| >10,000 - 50,000 | Formula 1 or 2 |
| >50,000 - 100,000 | Formula 1 or 2 |
| >100,000 | 2,000 |

(2) Operations where the primary mineral commodity produced is gold, silver, or precious metals shall be assessed a fee as follows:

| Ounces | Fee in Dollars |
|---|---|
| 0 - 1 | Formula 1 or 2 (not less than $50) |
| > 1 - 10 | Formula 1 or 2 |
| >10 - 50 | Formula 1 or 2 |
| >50 - 150 | Formula 1 or 2 |
| >150 - 300 | Formula 1 or 2 |
| >300 | 2,000 |

(3) Operations where the primary mineral commodity produced is base metals or other metals shall be assessed a fee as follows:

| Pounds | Fee in Dollars |
|---|---|
| 0 - 10 | Formula 1 or 2 (not less than $50) |
| >10 - 100 | Formula 1 or 2 |
| >100 - 1,000 | Formula 1 or 2 |
| >1,000 - 10,000 | Formula 1 or 2 |
| >10,000 - 20,000 | Formula 1 or 2 |
| >20,000 | 2,000 |

(d) The initial reporting fee for surface mining operations shall be five hundred dollars ($500).

(e) The annual reporting fee for newly permitted sur mining operations which have not yet begun operations s be fifty dollars ($50).

NOTE: Authority cited: Section 2207, Public Resources C Reference: Section 2207, Public Resources Code.

**§ 3699.** Low Gross Exemptions.

(a) For the calendar reporting year, a single operato mining company may file with the Office of Mine Recla tion of the Department of Conservation, a written request an exemption from the method of fee assessment set fortl Section 3698. Neither the State, nor any county, city, dist or other political subdivision shall be eligible for an exe tion under this Section. A request for an exemption must filed on a form (Low Gross Exemption Fee Request, Fo MRRC-4L) supplied by the Department of Conservation received by the Department of Conservation by July 1 follo ing the calendar reporting year. The Department of Conser tion shall grant the exemption if information submitted confirmed by the annual report form and approved reclar tion plan or plans, clearly demonstrates that the operation me the following criteria:

(1) material is extracted from one surface mining ope tion, and lead agency approval of a reclamation plan financial assurance has been obtained; and

(2) all of the single operator or mining company's surf mining operation located in the State of California is tied or located on, one site; and

(3) the amount of the operator's gross income from surface mining operation for the reporting calendar year w less than $100,000, and proof of gross income is supplied the form of a signed federal tax return or returns accompani by a completed and signed Federal Internal Revenue Serv. Form 4506, or a report prepared and signed by a certified pu lic accountant; and

(4) the owner or operator has submitted an annual repo ing fee of two hundred dollars ($200).

(b) For any request received on or before July 1 followi the reporting calendar year the Department may afford t applicant one 30-day period in which to correct minor de ciencies in the application.

(c) If the Department of Conservation determines th an exemption is not warranted, the operator may appeal th determination to the Board. The appeal must be submitted writing within fifteen (15) days of the denial of exempti notification by the Department of Conservation. The Cha man of the Board or his designee (Board Member), sh

termine whether the Board has jurisdiction for the purposes an appeal. In order for the Board to have jurisdiction the peal must:

(1) Demonstrate the exemption request was complete and ed in a timely fashion;

(2) Specifically relate to the exemption criteria outlined this Section; and

(3) Specify the appellant's arguments for granting the exption.

(d) If the appeal is within the Board's jurisdiction, the ard, based on all the evidence in the record, may affirm the partment's decision or grant the exemption. If the operator es not appeal, the appeal is not within the Board's jurisdicn, or the Board affirms the Department's decision, the opator or owner shall submit an annual reporting fee calcued upon the total mineral commodity produced pursuant to ction 3698. Such fee shall be submitted within thirty (30) ys of notification by the Department of Conservation or the ard. An operator or owner submitting an annual reporting e later than thirty (30) days after notification shall be assed a penalty and interest as provided in Public Resources de Section 2207(d)(5).

TE: Authority cited: Section 2207, Public Resources Code. ference: Section 2207, Public Resources Code.

## Article 9. Reclamation Standards

**§ 3700.** Applicability.

Reclamation of mined lands shall be implemented in conrmance with the standards in this Article.

(a) The standards shall apply to each surface mining eration to the extent that:

(1) they are consistent with required mitigation identified conformance with the California Environmental Quality Act, ovided that such mitigation is at least as stringent as the standrds; and

(2) they are consistent with the planned or actual subsecent use or uses of the mining site.

(b) Where an applicant demonstrates to the satisfaction of e lead agency that an exception to the standards specified in s article is necessary based upon the approved end use, the d agency may approve a different standard for inclusion in e approved reclamation plan. Where the lead agency allows ch an exception, the approved reclamation plan shall specify rifiable, site-specific standards for reclamation. The lead ency may set standards which are more stringent than the standards set forth in this Article; however, in no case may the lead agency approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this Article.

(c) When substantial amendments are proposed to reclamation plans which were approved prior to January 15, 1993, the standards set forth in this Article shall be applied by the lead agency in approving or denying approval of the amended reclamation plan.

(d) The standards in this Article shall not apply to mining operations:

(1) which completed reclamation prior to January 15, 1993, in conformance with an approved reclamation plan; or

(2) for which a reclamation plan has been approved prior to January 15, 1993.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3701.** Definitions.

The following definitions shall govern the interpretation of these regulations:

"Arid" means landscapes with an average annual precipitation of five inches or less.

"Contamination" means an impairment of the quality of the waters of the state to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

"Highwall" means the unexcavated face of exposed overburden and ore in a surface mine.

"Indigenous Plants" means plants occurring naturally in an area, not introduced.

"Native Species" means plant species indigenous to California, using pre-European as the historic time reference.

"Noxious Weeds" means any species of plant that is or is likely to become destructive or difficult to control or eradicate, and is termed to be so by the Director of the Department of Food and Agriculture in section 4500, Title 3 of the California Code of Regulations, pursuant to the Food and Agriculture Code section 5004 et seq.

"Vegetative Cover" means the vertical projection of the crown or shoot area of a species to the ground surface expressed as a percentage of the reference area (percentage can be greater than 100 percent).

"Vegetative Density" means the number of individuals or stems of each species rooted within the given reference area.

"Vegetative Species-richness" means the number of different plant species within the given reference area.

"Wetlands" for the purposes of these regulations, the definition of wetlands shall be the same as defined in the California Fish and Game Code, section 2785, subdivision (g).

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3702.** Financial Assurances. Lead agencies shall require financial assurances for reclamation in accordance with Public Resources Code section 2773.1 to ensure that reclamation is performed in accordance with the approved reclamation plan and with this article.

NOTE: Authority cited: Sections 2755, 2773 and 2773.1, Public Resources Code. Reference: Sections 2773 and 2773.1, Public Resources Code.

**§ 3703.** Performance Standards for Wildlife Habitat.

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

(a) Rare, threatened or endangered species as listed by the California Department of Fish and Game, (California Code of Regulations, Title 14, sections 670.2 - 670.5) or the U. S. Fish and Wildlife Service, (50 CFR 17.11 and 17.12) or species of special concern as listed by the California Department of Fish and Game in the Special Animals List, Natural Diversity Data Base, and their respective habitat, shall be conserved as prescribed by the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et. seq., and the California Endangered Species Act, Fish and Game Code section 2050 et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed in accordance with the provisions of the California Endangered Species Act, Fish and Game Code section 2050 et seq., and the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq.

(b) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by surface mining operations, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to mining.

(c) Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of surface mining operations shall be mitigated at a minimum of one to one ratio for wetland habitat acreage and wetland habitat value.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3704.** Performance Standards for Backfilling, Regr ing, Slope Stability, and Recontouring. Backfilling, regrad slope stabilization, and recontouring shall conform with following standards:

(a) Where backfilling is proposed for urban uses (e roads, building sites, or other improvements sensitive to set ment), the fill material shall be compacted in accordance v section 7010, Chapter 70 of the Uniform Building Code, p lished by the International Conference of Building Offic (1991), the local grading ordinance, or other methods appro by the lead agency as appropriate for the approved end us

(b) Where backfilling is required for resource conser tion purposes (e.g., agriculture, fish and wildlife habitat, wildland conservation), fill material shall be backfilled to standards required for the resource conservation use involv

(c) Piles or dumps of mining waste shall be stockpile such a manner as to facilitate phased reclamation. They sl be segregated from topsoil and topsoil substitutes or grov media salvaged for use in reclamation.

(d) Final reclaimed fill slopes, including permanent pi or dumps of mine waste rock and overburden, shall not exc 2:1 (horizontal:vertical), except when site-specific geolo and engineering analysis demonstrate that the proposed fi slope will have a minimum slope stability factor of safety t is suitable for the proposed end use, and when the propos final slope can be successfully revegetated.

(e) At closure, all fill slopes, including permanent piles dumps of mine waste and overburden, shall conform with surrounding topography and/or approved end use.

(f) Cut slopes, including final highwalls and quarry fac shall have a minimum slope stability factor of safety that suitable for the proposed end use and conform with the s rounding topography and/or approved end use.

(g) Permanent placement of piles or dumps of mining wa and overburden shall not occur within wetlands unless mitig tion acceptable to the lead agency has been proposed to off wetland impacts and/or losses.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Pub Resources Code. Reference: Section 2773, Public Resources Co

**§ 3705.** Performance Standards for Revegetation.

Revegetation shall be part of the approved plan, unless is not consistent with the approved end use.

(a) A vegetative cover suitable for the proposed end u and capable of self-regeneration without continued dependen on irrigation, soil amendments or fertilizer shall be establish on disturbed land unless an artificially maintained landsca

onsistent with the approved reclamation plan. Vegetative er or density, and species-richness shall be, where appro- ate, sufficient to stabilize the surface against effects of long- n erosion and shall be similar to naturally occurring habi- in the surrounding area. The vegetative density, cover and cies richness of naturally occurring habitats shall be docu- nted in baseline studies carried out prior to the initiation of ning activities. However, for areas that will not be reclaimed rior conditions, the use of data from reference areas in lieu baseline site data is permissible.

(b) Test plots conducted simultaneously with mining shall required to determine the most appropriate planting proce- es to be followed to ensure successful implementation he proposed revegetation plan. The lead agency may waive requirement to conduct test plots when the success of proposed revegetation plan can be documented from erience with similar species and conditions or by relying competent professional advice based on experience with species to be planted.

(c) Where surface mining activities result in compaction he soil, ripping, disking, or other means shall be used in as to be revegetated to eliminate compaction and to estab- a suitable root zone in preparation for planting.

(d) Prior to closure, all access roads, haul roads, and other fic routes to be reclaimed shall be stripped of any remain- roadbase materials, prepared in accordance with subsec- 3705(g), covered with suitable growth media or topsoil, revegetated. When it is not necessary to remove roadbase erials for revegetative purposes, lead agencies may set ifferent standard as specified in section 3700(b) of this icle.

(e) Soil analysis shall be required to determine the pres- e or absence of elements essential for plant growth and to ermine those soluble elements that may be toxic to plants, he soil has been chemically altered or if the growth media sists of other than the native topsoil. If soil analysis sug- ts that fertility levels or soil constituents are inadequate to cessfully implement the revegetative program, fertilizer or er soil amendments may be incorporated into the soil. When ve plant materials are used, preference shall be given to w-release fertilizers, including mineral and organic materi- that mimic natural sources, and shall be added in amounts ilar to those found in reference soils under natural vegeta- n of the type being reclaimed.

(f) Temporary access for exploration or other short-term s on arid lands shall not disrupt the soil surface except where essary to gain safe access. Barriers shall be installed en necessary to gain safe access. Barriers shall be installed en necessary to prevent unauthorized vehicular traffic from rfering with the reclamation of temporary access routes.

(g) Native plant species shall be used for revegetation, except when introduced species are necessary to meet the end uses specified in the approved reclamation plan. Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non-native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(h) Planting shall be conducted during the most favorable period of the year for plant establishment.

(i) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(j) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the lead agency, unless an artificially maintained landscape is consistent with the approved end use.

(k) Noxious weeds shall be managed: (1) when they threaten the success of the proposed revegetation; (2) to prevent spreading to nearby areas; and (3) to eliminate fire hazard.

(l) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the lead agency authorizes removal.

(m) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined-lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. There are standard statistical methods in commonly available literature for determining an 80 percent confidence level on a site-by-site basis. Examples of such literature include, but are not limited to, D. Mueller-Dombois

and H. Ellenberg, 1974, "Aims and Methods of Vegetation Ecology," John Wiley and Sons, Inc., or C. D. Bonham, 1988, "Measurements for Terrestrial Vegetation," John Wiley and Sons, Inc., and are available at many university libraries. The texts are also available at some local libraries through the Inter-Library Loan Program.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3706.** Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control.

(a) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. section 1251, et seq.

(b) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be diminished, except as allowed in the approved reclamation plan.

(c) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(d) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gullying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event.

(e) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.

(f) When stream diversions are required, they shall be constructed in accordance with:

(1) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(2) the requirements of the Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(g) When no longer needed to achieve the purpos which they were authorized, all temporary stream ch diversions shall be removed and the affected land reclai

NOTE: Authority cited: Sections 2755, 2756 and 2773, F Resources Code. Reference: Section 2773, Public Resources

**§ 3707.** Performance Standards for Prime Agricul Land Reclamation. In addition to the standards for topsoi vage, maintenance, and redistribution, the following stanc shall apply to mining operations on prime agricultural l where the approved end use is agriculture:

(a) Mining operations which will operate on prime cultural lands, as defined by the U.S. Soil Conserva Service, shall return all disturbed areas to a fertility lev specified in the approved reclamation plan.

(b) When distinct soil horizons are present, topsoil be salvaged and segregated by defined A, B, and C soil l zons. Upon reconstruction of the soil, the sequence of l zons shall have the A atop the B, the B atop the C, and tl atop graded overburden.

(c) Reclamation shall be deemed complete when pro tive capability of the affected land is equivalent to or exce for two consecutive crop years, that of the premining co tion or similar crop production in the area. Productivity r based on reference areas described in the approved recla tion plan, shall be specified in the approved reclamation p

(d) Use of fertilizers or other soil amendments shall cause contamination of surface or ground water.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Pu Resources Code. Reference: Section 2773, Public Resources C

**§ 3708.** Performance Standards for Other Agricult Land. The following standards shall apply to agricultural la other than prime agricultural lands, when the approved use is agriculture.

In addition to the standards for topsoil salvage, mai nance, and redistribution, non-prime agricultural lands sl be reclaimed so as to be capable of sustaining economic viable production of crops commonly grown in the surrou ing areas.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Pu Resources Code. Reference: Section 2773, Public Resources Co

**§ 3709.** Performance Standards for Building, Structu and Equipment Removal.

(a) All equipment, supplies and other materials shall stored in designated areas (as shown in the approved reclan

n plan). All waste shall be disposed of in accordance with te and local health and safety ordinances.

(b) All buildings, structures, and equipment shall be dis-ntled and removed prior to final mine closure except those ldings, structures, and equipment approved in the reclama-n plan as necessary for the end use.

TE: Authority cited: Sections 2755, 2756 and 2773, Public sources Code. Reference: Section 2773, Public Resources Code.

**§ 3710.** Performance Standards for Stream Protection, luding Surface and Groundwater.

(a) Surface and groundwater shall be protected from silt-on and pollutants which may diminish water quality as uired by the Federal Clean Water Act, sections 301 et seq. U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), Porter-Cologne Act, section 13000 et seq., County anti-ation ordinances, the Regional Water Quality Control Board the State Water Resources Control Board.

(b) In-stream surface mining operations shall be conducted compliance with Section 1600 et seq. of the California Fish d Game Code, section 404 of the Clean Water Act, and Sec-n 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(c) Extraction of sand and gravel from river channels shall regulated to control channel degradation in order to pre-nt undermining of bridge supports, exposure of pipelines or er structures buried within the channel, loss of spawning bitat, lowering of ground water levels, destruction of ripar-vegetation, and increased stream bank erosion (exceptions y be specified in the approved reclamation plan). Changes channel elevations and bank erosion shall be evaluated ually using records of annual extraction quantities and nchmarked annual cross sections and/or sequential aerial otographs to determine appropriate extraction locations d rates.

(d) In accordance with requirements of the California Fish d Game Code section 1600 et seq., in-stream mining activ-s shall not cause fish to become entrapped in pools or in -channel pits, nor shall they restrict spawning or migratory ivities.

TE: Authority cited: Sections 2755, 2756 and 2773, Public sources Code. Reference: Section 2773, Public Resources Code.

**§ 3711.** Performance Standards for Topsoil Salvage, Main-ance, and Redistribution. When the approved reclamation n calls for revegetation or cultivation of disturbed lands, following performance standards shall apply to topsoil sal-ge, maintenance, and redistribution activities:

(a) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the lead agency.

(b) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the reclamation plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.

(c) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (1) is set forth in the approved reclamation plan; (2) minimizes the area disturbed; and (3) is designed to achieve maximum revegetation success allowable under the mining plan.

(d) Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the lead agency.

(e) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

**§ 3712.** Performance Standards for Tailing and Mine Waste Management.

State Water Resources Control Board mine waste disposal regulations in Article 7 of Chapter 15 of Title 23, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal units shall be reclaimed in conformance with this article.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

§ 3713. Performance Standards for Closure of Surface Openings.

(a) Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:

(1) Water Code sections 13700, et seq. and 13800, et seq.;

(2) The applicable local ordinance adopted pursuant to Water Code section 13803;

(3) The applicable Department of Water Resources report issued pursuant to Water Code section 13800; and

(4) Subdivisions (1) and (2) of section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.

(b) Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

## Article 11. Financial Assurance Mechanisms

§ 3800. Purpose.

It is the purpose of this article to specify additional financial assurance mechanisms to assure reclamation pursuant to Public Resources Code Section 2710 et seq. (Surface Mining and Reclamation Act, as amended).

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3801. Authority. Review, approval, adjustment, enforcement, notification, forfeiture and all other responsibilities of the lead agency, operator and Department of Conservation with respect to financial assurances shall be conducted as prescribed in Public Resources Code Section 2710 et seq. unless expressly outlined in this article.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

§ 3802. Definitions. The following definitions shall govern the interpretation of this article:

(a) "Budget Set Aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of this article, by which a government entity proposes to make cific identified monies within the entity's budget availat perform reclamation pursuant to the approved reclamation

(b) "Financial Assurance Amount" means that amou money necessary to conduct and complete reclamation o mined lands in accordance with the approved reclamation plus a reasonable estimate of the administrative costs expenses which would be incurred by the lead agency o Department of Conservation, the total of which shall be ca lated in accordance with section 3804, and shall constitu obligation to pay by the operator.

(c) "Financial Assurance" means an instrument, fun other form of Financial Assurance as provided in Sec 2773.1(a) and (e) of the Public Resources Code and Article.

(d) "Pledge of Revenue" means a financial assura mechanism meeting the requirements of Section 3806.1 this Article, by which a governmental entity proposes to m specific, identified future revenue available to perform re mation pursuant to the approved reclamation plan.

NOTE: Authority cited: Section 2755, Public Resources Co Reference: Sections 2726-2734, Public Resources Code.

§ 3803. Financial Assurance Mechanisms. As outlined this article, financial assurances may take the form of any or a combination of the following, which the lead agency, u review by the Department of Conservation, reasonably de mines are adequate to perform reclamation in accordance v the approved reclamation plan.

(a) For non-governmental entity operators:

(1) Surety bonds;

(2) Irrevocable letters of credit; and

(3) Trust funds;

(b) For governmental entity operators:

(1) Surety bonds;

(2) Irrevocable letters of credit;

(3) Trust funds;

(4) Pledges of Revenue; or

(5) Budget Set Aside.

NOTE: Authority cited: Section 2773.1, Public Resources Co Reference: Section 2773.1(e), Public Resources Code.

§ 3804. Calculation of Financial Assurance Amount.

(a) The Financial Assurance Amount shall be calculated prescribed in Public Resources Code Section 2773.1 and d on:

(1) an analysis of the physical activities and materials nec- ry to implement the approved reclamation plan;

(2) the lead agency's unit costs, or costs for third party tracting, for each of these activities, if applicable;

(3) the number of units of each of these activities, if appli- e;

(4) a contingency amount not to exceed 10% of the recla- ion costs.

(b) The calculated amount should not include the cost of pleting mining of the site.

(c) In order for the lead agency or the Department of servation to determine what annual adjustments, if any, appropriate to the Financial Assurance Amount, the opera- hall annually submit to the lead agency a revision of the ten calculation required under Section 3804(a).

E: Authority cited: Section 2773.1, Public Resources Code. rence: Section 2773.1(e), Public Resources Code.

**§ 3805.** Review by the Department of Conservation.

Pursuant to Section 2774(c), Public Resources Code, the agency shall submit a copy of the proposed Financial urance and the Calculation of Financial Assurance Amount mitted by the operator pursuant to Section 3804 to the ctor of the Department of Conservation for review. With submittal the lead agency shall include the information documentation relied upon in calculating the amount of proposed Financial Assurance and indicate to the Director the Financial Assurance Amount is adequate for the lead ncy or the Department of Conservation to conduct and com- e reclamation on the mined lands in accordance with the oved reclamation plan. The Director shall have 45 days, n receipt, to prepare written comments regarding the pro- d Financial Assurance, if he/she so chooses.

E: Authority cited: Section 2774, Public Resources Code. rence: Section 2774(c), (d), Public Resources Code.

**§ 3806.** Surface mining operations owned and operated tate or local governmental entities.

In addition to the mechanisms provided in Public ources Section 2773.1 and this article, a financial assur- mechanism for reclamation for a surface mining opera- owned and operated by the state, county, city, district, or r political subdivision may be in the form of a:

(a) Pledge of Revenue; or

(b) Budget Set Aside.

These financial assurance mechanisms may only be used by the state, county, city, district, or other political subdivision.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

**§ 3806.1.** Pledge of Revenue.

(a) A pledge of revenue shall consist of a resolution or other appropriate document from the governing body of the state, county, city, district, or other political subdivision responsible for reclamation of the mined lands pursuant to the approved reclamation plans. The resolution or document shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The pledge of revenue shall contain the following items:

(1) The resolution or document establishing the pledge of revenue;

(2) The types and sources of pledged revenue;

(3) The period of time that each source of revenue is pledged to be available;

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and

(5) The authorization for the lead agency or the Department of Conservation to use the proceeds of the pledge to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the pledge pursuant to Section 2773.1(b).

(c) The state, county, city, district, or other political subdivision may pledge any following types of revenue that it controls and that will be available in a timely manner to conduct and complete reclamation:

(1) Fees, rents, or other charges;

(2) Tax revenues within statutory limitations; and/or

(3) Other guaranteed revenues that are acceptable to the lead agency and the Board.

(d) If the governmental entity ceases at any time to retain control of its ability to allocate any pledged revenue to conduct and complete reclamation, the entity shall notify the lead

agency and the Department of Conservation and shall obtain alternative coverage within 60 days after control lapses.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

**§ 3806.2.** Budget Set Aside.

(a) A Budget Set Aside shall consist of a specific fund or line item set aside by the state, county, city, district or other political subdivision responsible for reclamation of the mined lands. The Budget Set Aside shall remain effective continuously throughout the period in which the Budget Set Aside is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The set aside shall contain the following items:

(1) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the state, county, city, district or other political subdivision;

(2) The types and sources of specific funds;

(3) The period of time that each funding source is to be available;

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and

(5) The authorization for the lead agency or the Department of Conservation to use the funds to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the set aside pursuant to Section 2773.1(b).

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

## Article 12. Administrative Penalty Petition Procedures

The regulations contained in this article govern procedures for petitions to the State Mining and Geology Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an Administrative Penalty by the Director of the Department of Conservation.

Note: Authority: Sections 2755 and 2774.2, Public Resources Code; Reference: Section 2774.2, Public Resources Code.

**§ 3901.** Filing of Petition / Notice of Defense.

Any person filing a petition to the Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an administrative penalty by the Director of the Departn of Conservation shall, within 30 days of the date of issua of the order setting an administrative penalty, file a petit notice of defense with the Board requesting a hearing. petition/notice of defense shall be on the form set forth in S tion 3911 of this article, or shall supply the following infor tion to the Board:

(1) Written statements, with supporting documentat indicating specifically the basis for the petitioner's challe of the Director's order of administrative penalty;

(2) A written statement advising the Board of the na address and telephone number of the petitioner's represe tive, if any;

Note: Authority: Sections 2755 and 2774.2, Public Resources Co Reference: Section 2774.2, Public Resources Code

**§ 3902.** Determination of Jurisdiction.

The Chairman of the Board, or the Chairman's desig who is a Board member, shall determine within 15 days receipt of the information required by Section 3901 of t article, whether the petition is within the jurisdiction of Board for the purpose of hearing the petition, and determ whether the petition's challenge raises substantial iss related to the validity of the allegations supporting t Director's order. If the Chairman finds, based upon the cri ria stated in (a), (b), and (c) below, that the petition raises substantial issues with respect to the Director's allegatic contained in the order of administrative penalty, or has n been filed within statutory time limits, then the Chairman sh refuse to grant a hearing on the petition. In making the determinations, the Chairman shall consider the following:

(a) Whether the filing of the petition / notice of defer with the Board is within the time limits stipulated in Pub Resources Code Section 2774.2;

(b) Whether the petition specifically relates to the alleg tions contained in the Director's notice and order of admin trative penalty;

(c) Whether prima facie documentation supporting t petition's position is reasonably sufficient to substantiate t petition's challenge.

Note: Authority: Sections 2755 and 2774.2, Public Resources Co Reference: Section 2774.2, Public Resources Code.

**§ 3903.** Administrative Record.

The Administrative Record shall consist of the reco before the Director, evidence submitted on behalf of the pe tioner, any other relevant evidence which, in the judgme

ne Board, should be considered applicable, and evidence ented during the hearing on the petition.

: Authority: Sections 2755 and 2774.2, Public Resources Code; rence: Section 2774.2, Public Resources Code.

§ **3904.** Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on a ion no later than 60 days from the Chairman's acceptance ne petition, or at such time as may be mutually agreed upon ne Board and the petitioner. The hearing may be conducted art of a regular business meeting of the Board, or may onducted by a committee of the Board. The Board shall eavor to schedule such public hearings in or near the jurision from which the petition originated, but may otherwise dule such petitions to be heard in Sacramento.

: Authority: Sections 2755 and 2774.2, Public Resources Code; rence: Section 2774.2, Public Resources Code.

§ **3905.** Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a comee composed of three members of the Board, who shall sist of either the Chairman or Vice Chairman of the Board, two other members of the Board selected by the Chair. The Chairman or Vice Chairman shall conduct the hear- The record of the hearing and the recommendations of the mittee shall be presented to a quorum of the Board at its regular business meeting for a decision of the full Board sistent with the procedures set forth in Section 3910 of this le.

: Authority: Sections 2755 and 2774.2, Public Resources Code; rence: Section 2774.2, Public Resources Code.

§ **3906.** Hearing Procedures—Notice.

(a) At least 10 days prior to the hearing, the Board shall public notice as follows:

(1) Mailing or delivering by personal service the notice to petitioner and to the petitioner's lead agency;

(2) Mailing or delivering by personal service the notice to Director of the Department of Conservation;

(3) Mailing the notice to any person who requests notice ne petition or hearing; and,

(4) Mailing the notice to the Board's regular mailing list.

(b) The notice of hearing shall include the following:

(1) The name of the petitioner;

(2) A statement describing the basis for the action;

(3) The amount of the administrative penalty petitioned;

(4) The time, date, and location of the public hearing.

Note: Authority: Sections 2755 and 2774.2, Public Resources Code; Reference: Section 2774.2, Public Resources Code.

§ **3907.** Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3901, 3902, and 3903 of this article.

Note: Authority: Sections 2755 and 2774.2, Public Resources Code; Reference: Section 2774.2, Public Resources Code.

§ **3908.** Hearing Procedures—Recording and Transcription.

Hearings conducted under the procedures of this article shall be electronically recorded by the Board. Cost of transcription or reproduction of the electronic recording, if requested, shall be borne by the party making such request.

Note: Authority: Section 2755, Public Resources Code; Reference: Section 2755, Public Resources Code.

§ **3909.** Hearing Procedures—Use of Informal Hearing Procedure and Sequence.

(a) The Board may conduct the petition hearing under this article pursuant to the informal hearing adjudicative proceedings described in the California Administrative Procedure Act. The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.

(b) The public hearing shall normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the petitioner;

(3) Statements on behalf of the Director;

(4) Statements on behalf of the lead agency;

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the petitioner;

(7) Rebuttal on behalf of the Director;

(8) Motion to close the public hearing.

(c) Not withstanding the above, the Chairman or the Chairman's designee (Board member) for the purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(d) The Chairman or the Chairman's designee (Board member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Four copies of any written statements shall be submitted to the Board at least ten days prior to the hearing.

(e) The actions of the Chairman or the Chairman's designee (Board member) under this section are not subject to judicial review.

Note: Authority: Sections 2755 and 2774.2, Public Resources Code; Article 10, Administrative Procedure Act; Reference: Section 2774.2, Public Resources Code; Article 10, Administrative Procedure Act.

**§ 3910.** Hearing Procedures—Determination.

(a) Following the public hearing, the Board shall de
mine: (1) whether the alleged violations cited in the Direct
order are supported by substantial evidence in light of the wl
record before it; and, (2) the action the Board should tak
affirm, modify, or set aside, in whole or in part, the admi
trative penalty issued by the Director. The Board shall i
its own order upholding its determination.

(b) Notification of the Board's determination shall be m
by certified mail or personal service to the petitioner, the l
agency, and the Director within 15 days following the reg
business meeting of the Board at which the decision is ma

Note: Authority: Sections 2755 and 2774.2, Public Resources C
Reference: Section 2774.2, Public Resources Code.

§ 3911. Petition / Notice of Defense Form.

**STATE OF CALIFORNIA**

**DEPARTMENT OF CONSERVATION**
**STATE MINING AND GEOLOGY BOARD**

| | | |
|---|---|---|
| **I THE MATTER OF THE** | ) | **Case No.** |
| **)MINISTRATIVE PENALTY** | ) | |
| **SSESSED AGAINST** | ) | **PETITION/** |
| | ) | **NOTICE OF DEFENSE** |
| | ) | |
| **an individual,** | ) | |
| **o.a.** | ) | |
| | ) | |
| | ) | |
| **PETITIONER(S)** | ) | |

I acknowledge receipt of this action assessing an administrative penalty under Public Resources (Code Section 2774.1 9c) against me or the company for which I am the agent.

I request a hearing before the State Mining and Geology Board.

I object to the action on the ground that it does not state acts of omissions upon which the Department of Conservation may proceed.

I object to the form of the action on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare a defense.

I admit the action in whole or in part. (Indicate which parts you admit by paragraph number or list on a separate page facts or allegations admitted.)

I deny the action in whole or in part. (Indicate which parts you admit by paragraph number or list on a separate page facts or allegations denied.)

I have no personal knowledge of the facts or allegations. (Indicate which parts you admit by paragraph number or list on a separate page.)

I present the following new matter by way of defense:
(On a separate page, list other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the alleged violation. Be as specific as you can. If you have or know of any document(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or copy/copies if you can.)

( ) I wish to present the following information, statement, etc. in addition:
(Use a separate page, if needed.)

( ) I have documents, exhibits, declarations under penalty of perjury and/or other materials that I am attaching to this form or that I want to be made a part of the administrative record for this administrative penalty. (Please list in chronological order by date, author and the title and enclose a copy with this completed form.)

( ) I object to the action on the ground that, under circumstances, compliance with the requirement of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights. (List the other regulations.)

( ) I will pay the full assessed amount and waive a hearing.
DO NOT SEND CASH. *Please note your case number on your remittance, made payable to: State of California, Department of Conservation, to ensure proper credit and mail it to this address: Department of Conservation, Office of Mine Reclamation, 801 K Street, MS 09-06, Sacramento, California 95814.*

If you intend to be represented by an attorney, please state his/her name, address, and telephone number. Otherwise, state the address and phone number where you want legal documents sent. Mail this Notice of Defense to: *Executive Officer, State Mining and Geology Board, 801 K Street, MS 24-05, Sacramento, California 95814.*

Dated: _____ _____
Petitioner's Signature

_____
Name of Counsel/Petitioner (circle one) Phone Number

_____
Address City State Zip

SECTION III. STATE MINING AND GEOLOGY BOARD GUIDELINES

## THE STATE MINING AND GEOLOGY BOARD

# STATE MINING AND GEOLOGY BOARD GUIDELINES

### MODEL SMARA ORDINANCE

for use by City and County "lead agencies"

Chapter _____

### Surface Mining and Reclamation

Sections:


| | | | |
|---|---|---|---|
| 1.0 | Purpose and Intent | 11.0 | Interim Management Plans |
| 2.0 | Definitions | 12.0 | Annual Report Requirements |
| 3.0 | Incorporation by Reference | 13.0 | Inspections |
| 4.0 | Scope | 14.0 | Violations and Penalties |
| 5.0 | Vested Rights | 15.0 | Appeals |
| 6.0 | Process | 16.0 | Fees |
| 7.0 | Standards for Reclamation | 17.0 | Mineral Resource Protection |
| 8.0 | Statement of Responsibility | 18.0 | Severability |
| 9.0 | Findings for Approval | 19.0 | Effective Date |
| 10.0 | Financial Assurances | | |


**§1.0.** Purpose and Intent.

The City/County _____of recognizes that the extraction of minerals is essential to the continued economic well-being of the City/County and to the needs of society and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The City/County also recognizes that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefore may vary accordingly.

The purpose and intent of this Chapter is to ensure the continued availability of important mineral resources, while regulating surface mining operations as required by California's Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710 et seq.), as amended, hereinafter referred to as "SMARA," Public Resources Code (PRC) Section 2207 (relating to annual reporting requirements), and State Mining and Geology Board regulations (hereinafter referred to as "State regulations") for surface mining and reclamation practice (California Code of Regulations [CCR], Title 14, Division 2, Chapter 8, Subchapter 1, Sections 3500 et seq.), to ensure that:

NOTE: This model was adopted by the State Mining and Geology Board on May 9, 1996, and is intended for use by City and County lead agencies desiring assistance in developing their SMARA ordinances. While this model contains each of the elements required to be in a SMARA ordinance, as well as some additional elements common to ordinances in use statewide, it should be appropriately modified to reflect local conditions and practices. Some provisions may not be applicable to some lead agencies. The use of this model by a lead agency is discretionary, and its form is not mandated by law.

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.

**§2.0.** Definitions.

The definitions set forth in this section shall govern the construction of this chapter.

**Area of Regional Significance.** An area designated by the State Mining and Geology Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the State within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the premature loss of minerals that are of more than local significance.

**Area of Statewide Significance.** An area designated by the Board which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the State and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

**Borrow Pits.** Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

**Compatible Land Uses.** Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

**Haul Road.** A road along which material is transported from the area of excavation to the processing plant or stock pile area of the surface mining operation.

**Idle.** Surface mining operations curtailed for a period of one year or more, by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

**Incompatible Land Uses.** Land uses inherently inco patible with mining and/or that require public or priv investment in structures, land improvements, and landscapi and that may prevent mining because of the greater econon value of the land and its improvements. Examples of such u may include, but shall not be limited to, high density reside tial, low density residential with high unit value, public faci ties, geographically limited but impact intensive industrial, a commercial.

**Mined Lands.** The surface, subsurface, and grou water of an area in which surface mining operations will b are being, or have been conducted, including private ways a roads appurtenant to any such area, land excavations, wo ings, mining waste, and areas in which structures, facilitie equipment, machines, tools, or other materials or proper which result from, or are used in, surface mining operatio are located.

**Minerals.** Any naturally occurring chemical element compound, or groups of elements and compounds, formed fr inorganic processes and organic substances, including, but n limited to, coal, peat, and bituminous rock, but excluding ge thermal resources, natural gas, and petroleum.

**Operator.** Any person who is engaged in surface mini operations, or who contracts with others to conduct operatio on his/her behalf, except a person who is engaged in surfa mining operations as an employee with wages as his/her so compensation.

**Reclamation.** The combined process of land treatme that minimizes water degradation, air pollution, dama to aquatic or wildlife habitat, flooding, erosion, and oth adverse effects from surface mining operations, includi adverse surface effects incidental to underground mines, that mined lands are reclaimed to a usable condition which readily adaptable for alternate land uses and create no dang to public health or safety. The process may extend to affect lands surrounding mined lands, and may require backfillin grading, resoiling, revegetation, soil compaction, stabilizatio or other measures.

**Stream Bed Skimming.** Excavation of sand and grav from stream bed deposits above the mean summer water lev or stream bottom, whichever is higher.

**Surface Mining Operations.** All, or any part of, the pr cess involved in the mining of minerals on mined lands b removing overburden and mining directly from the miner deposits, open-pit mining of minerals naturally exposed, mi ing by the auger method, dredging and quarrying, or surfa work incident to an underground mine. Surface mining oper tions include, but are not limited to, inplace distillation retorting or leaching, the production and disposal of minir

waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same).

**§3.0.** Incorporation by Reference.

The provisions of SMARA (PRC §2710 et seq.), PRC Section 2207, and State regulations CCR §3500 et seq., as those provisions and regulations may be amended from time to time, are made a part of this Chapter by reference with the same force and effect as if the provisions therein were specifically and fully set out herein, excepting that when the provisions of this Chapter are more restrictive than correlative State provisions, this Chapter shall prevail.

**§4.0.** Scope.

Except as provided in this Chapter, no person shall conduct surface mining operations unless a permit, Reclamation Plan, and financial assurances for reclamation have first been approved by the City/County. Any applicable exemption from this requirement does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the City/County, including but not limited to, the application of CEQA, the requirement of Site Approvals or other permits, the payment of development impact fees, or the imposition of other dedications and exactions as may be permitted under the law. The provisions of this Chapter shall apply to all lands within the City/County, public and private.

This Chapter shall not apply to the following activities, subject to the above-referenced exceptions:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earth-moving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act ("CEQA", Public Resources Code, Division 13, §21000 et seq.).

(2) The City/County's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to CEQA.

(3) The approved construction project is consistent with the general plan or zoning of the site.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the City/County's general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the City/County.

(3) None of the minerals being processed is being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved Reclamation Plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the State Mining and Geology Board determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) Road construction and maintenance for timber or forest operations if the land is owned by the same person or entity, and if the excavation is conducted adjacent to timber or forest operation roads. This exemption is only available if slope stability and erosion are controlled in accordance with Board regulations and, upon closure of the site, the person closing

the site implements, where necessary, revegetation measures and post-closure uses in consultation with the Department of Forestry and Fire Protection. This exemption does not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavations for materials that are, or have been, sold for commercial purposes.

(j) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions: (1) the operations are being conducted in accordance with Division 3 (commencing with Section 3000); (2) the operations are consistent with the [City's/County's] general plan or zoning applicable to the site; (3) the earthmoving activities are within oil or gas field properties under a common owner or operator; and, (4) no excavated materials are sold for commercial purposes.

**§5.0.** Vested Rights.

No person who obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit to mine, so long as the vested right continues and as long as no substantial changes have been made in the operation except in accordance with SMARA, State regulations, and this Chapter. Where a person with vested rights has continued surface mining in the same area subsequent to January 1, 1976, he shall obtain City/County approval of a Reclamation Plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre- and post-Act mining, the Reclamation Plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act (January 1, 1976).

All other requirements of State law and this Chapter shall apply to vested mining operations.

(Note: Section 5.0 may be eliminated in jurisdictions processing only post-Act mining operation applications.)

**§6.0.** Process.

(a) Applications for a Site Approval or Reclamation Plan for surface mining or land reclamation projects shall be made on forms provided by the Planning Department. Said application shall be filed in accord with this Chapter and procedures to be established by the Planning Director. The forms for Reclamation Plan applications shall require, at a minimum, each of the elements required by SMARA (§§2772-2773) and State regulations, and any other requirements deemed necessary to facilitate an expeditious and fair evaluation of the proposed Reclamation Plan, to be established at the discretion of the Planning Director. As many copies of the Site Approval application as may be required by the Planning Director s be submitted to the Planning Department.

(b) As many copies of a Reclamation Plan applica as may be required shall be submitted in conjunction witl applications for Site Approvals for surface mining operati For surface mining operations that are exempt from a Approval pursuant to this Chapter, the Reclamation P application shall include information concerning the mir operation that is required for processing the Reclamation P All documentation for the Reclamation Plan shall be subi ted to the City/County at one time.

(c) Applications shall include all required environme review forms and information prescribed by the Plann Director.

(d) Upon completion of the environmental review pro dure and filing of all documents required by the Plann Director, consideration of the Site Approval or Reclamat Plan for the proposed or existing surface mine shall be co pleted pursuant to Section _____ of the _____ Code : public hearing before the Planning Commission, and pursu to Section 2774 of the Public Resources Code.

(e) Within thirty (30) days of acceptance of an appli tion for a Site Approval for surface mining operations and/c Reclamation Plan as complete, the Planning Department sh notify the State Department of Conservation of the fil of the application(s). Whenever mining operations are p posed in the 100-year flood plain of any stream, as shown Zone A of the Flood Insurance Rate Maps issued by the Fe eral Emergency Management Agency, and within one m upstream or downstream, of any state highway bridge, Planning Department shall also notify the State Department Transportation that the application has been received.

(f) The Planning Department shall process the appli tion(s) through environmental review pursuant to the Calif nia Environmental Quality Act (Public Resources Co Sections 21000 et seq.) and the City's/County's environme tal review guidelines.

(g) Subsequent to the appropriate environmental revie the Planning Department shall prepare a staff report with re ommendations for consideration by the Planning Commissi

(h) The Planning Commission shall hold at least o noticed public hearing on the Site Approval and/or Reclam tion Plan.

(i) Prior to final approval of a Reclamation Plan, financi assurances (as provided in this Chapter), or any amendmer to the Reclamation Plan or existing financial assurances, t Planning Commission shall certify to the State Departme

Conservation that the Reclamation Plan and/or financial assurance complies with the applicable requirements of State w, and submit the plan, assurance, or amendments to the ate Department of Conservation for review. The Planning ommission may conceptually approve the Reclamation Plan d financial assurance before submittal to the State epartment of Conservation. If a Site Approval is being proessed concurrently with the Reclamation Plan, the Planning ommission may simultaneously also conceptually approve e Site Approval. However, the Planning Commission may fer action on the Site Approval until taking final action on e Reclamation Plan and financial assurances. If necessary to mply with permit processing deadlines, the Planning Comission may conditionally approve the Site Approval with the ndition that the Planning Department shall not issue the Site pproval for the mining operations until cost estimates for nancial assurances have been reviewed by the State Departent of Conservation and final action has been taken on the clamation Plan and financial assurances.

Pursuant to PRC §2774(d), the State Department of Conservation shall be given 30 days to review and comment on the clamation Plan and 45 days to review and comment on the nancial assurance. The Planning Commission shall evaluate itten comments received, if any, from the State Department Conservation during the comment periods. Staff shall pre- re a written response describing the disposition of the major ues raised by the State for the Planning Commission's pproval. In particular, when the Planning Commission's sition is at variance with the recommendations and objecns raised in the State's comments, the written response shall dress, in detail, why specific comments and suggestions ere not accepted. Copies of any written comments received d responses prepared by the Planning Commission shall be mptly forwarded to the operator/applicant.

(j) The Planning Commission shall then take action to prove, conditionally approve, or deny the Site Approval d/or Reclamation Plan, and to approve the financial assurces pursuant to PRC §2770(d).

(k) The Planning Department shall forward a copy of each pproved Site Approval for mining operations and/or approved clamation Plan, and a copy of the approved financial assurces to the State Department of Conservation. By July 1 of ch year, the Planning Department shall submit to the State partment of Conservation for each active or idle mining eration a copy of the Site Approval or Reclamation Plan endments, as applicable, or a statement that there have been changes during the previous year.

**§7.0.** Standards for Reclamation.

(a) All Reclamation Plans shall comply with the provisns of SMARA (§2772 and §2773) and State regulations (CCR §§ 3500-3505). Reclamation Plans approved after January 15, 1993, Reclamation Plans for proposed new mining operations, and any substantial amendments to previously approved Reclamation Plans, shall also comply with the requirements for reclamation performance standards (CCR §§3700-3713).

(b) The City/County may impose additional performance standards as developed either in review of individual projects, as warranted, or through the formulation and adoption of Citywide/Countywide performance standards.

(c) Reclamation activities shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation may also be required for mined lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal, or fill, as approved by the City/County. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include (a) the beginning and expected ending dates for each phase; (b) all reclamation activities required; (c) criteria for measuring completion of specific reclamation activities; and, (d) estimated costs for completion of each phase of reclamation.

**§8.0.** Statement of Responsibility.

The person submitting the Reclamation Plan shall sign a statement accepting responsibility for reclaiming the mined lands in accordance with the Reclamation Plan. Said statement shall be kept by the Planning Department in the mining operation's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Planning Department for placement in the permanent record.

**§9.0.** Findings for Approval.

(1) That the Reclamation Plan complies with SMARA §2772 and §2773, and any other applicable provisions.

(2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR §§3500-3505 and §§3700-3713).

(3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter and the City's/County's General Plan and any applicable resource plan or element.

(4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's/County's environmental review guidelines, and all significant adverse impacts from reclama-

tion of the surface mining operations are mitigated to the maximum extent feasible.

(5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

(6) That the Reclamation Plan will restore the mined lands to a usable condition which is readily adaptable for alternative land uses consistent with the General Plan and applicable resource plan.

(7) That a written response to the State Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's/ County's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

**§ 10.0.** Financial Assurances.

(a) To ensure that reclamation will proceed in accordance with the approved Reclamation Plan, the City/County shall require as a condition of approval security which will be released upon satisfactory performance. The applicant may pose security in the form of a surety bond, trust fund, irrevocable letter of credit from an accredited financial institution, or other method acceptable to the City/County and the State Mining and Geology Board as specified in State regulations, and which the City/County reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved Reclamation Plan. Financial assurances shall be made payable to the City/County of _____and the State Department of Conservation.

(b) Financial assurances will be required to ensure compliance with elements of the Reclamation Plan, including but not limited to, revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, and other measures, if necessary.

(c) Cost estimates for the financial assurance shall be submitted to the Planning Department for review and approval prior to the operator securing financial assurances. The Planning Director shall forward a copy of the cost estimates, together with any documentation received supporting the amount of the cost estimates, to the State Department of Conservation for review. If the State Department of Conservation does not comment within 45 days of receipt of these estimates, it shall be assumed that the cost estimates are adequate, unless the City/County has reason to determine that additional c may be incurred. The Planning Director shall have the dis tion to approve the financial assurance if it meets the requ ments of this Chapter, SMARA, and State regulations.

(d) The amount of the financial assurance shall be ba upon the estimated costs of reclamation for the years or pha stipulated in the approved Reclamation Plan, including maintenance of reclaimed areas as may be required, subjec adjustment for the actual amount required to reclaim lands turbed by surface mining activities in the upcoming year. C estimates should be prepared by a California registered P fessional Engineer and/or other similarly licensed and qu fied professionals retained by the operator and approved the Planning Director. The estimated amount of the finan assurance shall be based on an analysis of physical activi necessary to implement the approved Reclamation Plan, unit costs for each of these activities, the number of units each of these activities, and the actual administrative co Financial assurances to ensure compliance with revegetati restoration of water bodies, restoration of aquatic or wild habitat, and any other applicable element of the approved R lamation Plan shall be based upon cost estimates that incl but may not be limited to labor, equipment, materials, mob zation of equipment, administration, and reasonable profit a commercial operator other than the permittee. A continge factor of ten percent (10%) shall be added to the cost of fin cial assurances.

(e) In projecting the costs of financial assurances, it sh be assumed without prejudice or insinuation that the surf mining operation could be abandoned by the operator and, c sequently, the City/County or State Department of Conser tion may need to contract with a third party commercial co pany for reclamation of the site.

(f) The financial assurances shall remain in effect for t duration of the surface mining operation and any additio period until reclamation is completed (including any main nance required).

(g) The amount of financial assurances required of a s face mining operation for any one year shall be adjusted an ally to account for new lands disturbed by surface mini operations, inflation, and reclamation of lands accomplish in accordance with the approved Reclamation Plan. T financial assurances shall include estimates to cover rec mation for existing conditions and anticipated activities d ing the upcoming year, excepting that the permittee may r claim credit for reclamation scheduled for completion duri the coming year.

(h) Revisions to financial assurances shall be submitt to the Planning Director each year prior to the anniversa date for approval of the financial assurances. The financi assurance shall cover the cost of existing disturbance and a

pated activities for the next calendar year, including any quired interim reclamation. If revisions to the financial urances are not required, the operator shall explain, in writ-, why revisions are not required.

**§ 11.0.** Interim Management Plans.

(a) Within 90 days of a surface mining operation becom- idle, the operator shall submit to the Planning Department proposed Interim Management Plan (IMP). The proposed P shall fully comply with the requirements of SMARA, luding but not limited to all Site Approval conditions, and ll provide measures the operator will implement to main- the site in a stable condition, taking into consideration blic health and safety. The proposed IMP shall be submitted forms provided by the Planning Department, and shall be cessed as an amendment to the Reclamation Plan. IMPs all not be considered a project for the purposes of environ- ntal review.

(b) Financial assurances for idle operations shall be main- ned as though the operation were active.

(c) Upon receipt of a complete proposed IMP, the Plan- g Department shall forward the IMP to the State Depart- nt of Conservation for review. The IMP shall be submitted the State Department of Conservation at least 30 days prior approval by the Planning Commission.

(d) Within 60 days of receipt of the proposed IMP, or a ger period mutually agreed upon by the Planning Director d the operator, the Planning Commission shall review and prove or deny the IMP in accordance with this Chapter. e operator shall have thirty (30) days, or a longer period tually agreed upon by the operator and the Planning Direc-, to submit a revised IMP. The Planning Commission shall prove or deny the revised IMP within sixty (60) days of eipt. If the Planning Commission denies the revised IMP, operator may appeal that action to the City Council / Board Supervisors.

(e) The IMP may remain in effect for a period not to ceed five years, at which time the Planning Commission may new the IMP for another period not to exceed five years, or quire the surface mining operator to commence reclamation accordance with its approved Reclamation Plan.

**§ 12.0.** Annual Report Requirements.

Surface mining operators shall forward an annual surface ning report to the State Department of Conservation and to City/County Planning Department on a date established by State Department of Conservation, upon forms furnished the State Mining and Geology Board. New mining opera- ns shall file an initial surface mining report and any appli- cable filing fees with the State Department of Conservation within 30 days of permit approval, or before commencement of operations, whichever is sooner. Any applicable fees, together with a copy of the annual inspection report, shall be forwarded to the State Department of Conservation at the time of filing the annual surface mining report.

**§ 13.0.** Inspections.

The Planning Department shall arrange for inspection of a surface mining operation within six months of receipt of the Annual Report required in Section 12, to determine whether the surface mining operation is in compliance with the approved Site Approval and/or Reclamation Plan, approved financial assurances, and State regulations. In no event shall less than one inspection be conducted in any calendar year. Said inspections may be made by a state-registered geologist, state-registered civil engineer, state-licensed landscape architect, or state-registered forester, who is experienced in land reclamation and who has not been employed by the mining operation in any capacity during the previous 12 months, or other qualified specialists, as selected by the Planning Director. All inspections shall be conducted using a form approved and provided by the State Mining and Geology Board.

The Planning Department shall notify the State Department of Conservation within thirty (30) days of completion of the inspection that said inspection has been conducted, and shall forward a copy of said inspection notice and any supporting documentation to the mining operator. The operator shall be solely responsible for the reasonable cost of such inspection.

**§ 14.0.** Violations and Penalties.

If the Planning Director, based upon an annual inspection or otherwise confirmed by an inspection of the mining operation, determines that a surface mining operation is not in compliance with this Chapter, the applicable Site Approval, any required permit and/or the Reclamation Plan, the City/County shall follow the procedures set forth in Public Resources Code, §2774.1 and §2774.2 concerning violations and penalties, as well as those provisions of the City/County Development Code for revocation and/or abandonment of a Site Approval which are not preempted by SMARA.

**§ 15.0.** Appeals.

Any person aggrieved by an act or determination of the Planning Department in the exercise of the authority granted herein, shall have the right to appeal to the Planning Commission or the City Council/Board of Supervisors, whichever is the next higher authority. An appeal shall be filed on forms provided, within fifteen (15) calendar days after the rendition, in writing, of the appealed decision.

(Note: Section 15.0 should be appropriately modified to reflect local appeal procedures. This language has been provided only as a "placeholder" for such provisions.)

§ **16.0.** Fees.

The City/County shall establish such fees as it deems necessary to cover the reasonable costs incurred in implementing this Chapter and the State regulations, including but not limited to, processing of applications, annual reports, inspections, monitoring, enforcement and compliance. Such fees shall be paid by the operator, as required by the City/County, at the time of filing of the Site Approval application, Reclamation Plan application, and at such other times as are determined by the City/County to be appropriate in order to ensure that all reasonable costs of implementing this Chapter are borne by the mining operator.

§ **17.0.** Mineral Resource Protection.

Mine development is encouraged in compatible areas before encroachment of conflicting uses. Mineral resource areas that have been classified by the State Department of Conservation's Division of Mines and Geology or designated by the State Mining and Geology Board, as well as existing surface mining operations that remain in compliance with the provisions of this Chapter, shall be protected from intrusion by incompatible land uses that may impede or preclude mineral extraction or processing, to the extent possible for consistency with the City's/County's General Plan.

In accordance with PRC §2762, the City's/County's G eral Plan and resource maps will be prepared to reflect n eral information (classification and/or designation repo within 12 months of receipt from the State Mining and G ogy Board of such information. Land use decisions withir City/County will be guided by information provided on location of identified mineral resources of regional significa Conservation and potential development of identified mi resource areas will be considered and encouraged. Reco tion on property titles of the presence of important min resources within the identified mineral resource areas may encouraged as a condition of approval of any developm project in the impacted area. Prior to approving a use that wo otherwise be incompatible with mineral resource protecti conditions of approval may be applied to encroaching de opment projects to minimize potential conflicts.

§ **18.0.** Severability.

If any section, subsection, sentence, clause or phrase this Chapter is for any reason held to be invalid or unconsti tional by the decision of a court of competent jurisdiction shall not affect the remaining portions of this Chapter.

§ **19.0.** Effective Date.

This Chapter shall take effect thirty (30) days followi its adoption.

SMARA FINANCIAL
ASSURANCE GUIDELINES

## THE STATE MINING AND GEOLOGY BOARD

# SURFACE MINING AND RECLAMATION ACT FINANCIAL ASSURANCE GUIDELINES

### GUIDELINES REVISED AND RE-ADOPTED JANUARY 16, 1997; REVISED BOND FORMS ADDED JUNE 10, 1998

*Sections 2770 and 2773.1 of the Surface Mining and Reclamation Act of 1975 (SMARA, Public Resources Code Section 2710 et seq.) require surface mining operators to obtain lead agency (city or county) approved financial assurances for reclamation. SMARA was amended in 1992 by the enactment of AB 3098 (Sher, Chapter 1077, Statutes of 1992) which required the Board to adopt financial assurance guidelines by March 1, 1993 to implement SMARA Section 2773.1 and to assist mining operators and lead agencies in complying with the Act's financial assurance requirement. These guidelines, developed by the Board's Financial Assurance Committee, serve to clarify and supplement existing statute. They do not create new requirements for mining operators or local lead agencies. The Guidelines are reviewed, revised and re-adopted as necessary. Should SMARA be amended, statute will supersede this document.*

### (1) Why Are Financial Assurances Required?

The State Legislature amended the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.) to require surface mining operators to obtain lead agency (city or county) approved financial assurances for the reclamation of mined lands so that the public will not bear the cost of reclaiming abandoned surface mining operations. In the event of such abandonment or financial incapability, the funds will be used by the lead agency or the Department of Conservation (the Department) to reclaim the mined site.

Reference: SMARA Section 2770(a).

### (2) What is the Purpose of Financial Assurances?

Financial assurances serve as an assurance that a surface mining operation will be reclaimed in accordance with its lead agency approved reclamation plan.

Reference: SMARA Section 2773.1(a).

### (3) What do Financial Assurances Guarantee?

Financial assurances assure reclamation of mined lands in accordance with the approved reclamation plan, including: (1) areas disturbed after January 1, 1976; (2) areas scheduled for disturbance in the next year; and (3) areas not successfully reclaimed pursuant to the lead agency approved reclamation plan.

Reference: SMARA Sections 2770(d); 2773.1(a)(4); and 2776.

### (4) What is the Lead Agency's Review Process for Financial Assurances?

The lead agency should develop a time schedule for the review and approval of the financial assurance and provide it to the mine operator upon submittal of the proposed financial assurance. The schedule should indicate: (1) the amount of time the lead agency and the Department have to review and comment on the proposed financial assurance; and, (2) when the operator can expect to receive final approval/denial of the proposed financial assurance. Upon final action, the lead agency should provide to the mine operator written notice of the following: (1) approval of the financial assurance, and the amount; or, (2) denial of the financial assurance, for what reasons, and a course of action available to the mine operator.

Reference: SMARA Section 2770(d).

### (5) What Happens if my Financial Assurances are Not Approved by the Lead Agency?

If an operator's proposed financial assurances are not approved by the lead agency, the operator should carefully examine the reasons provided by the lead agency for the denial of the financial assurances. If the operator believes that the financial assurances have not been approved because of lead agency inaction, or were denied for reasons not related to the requirements in SMARA or the Board's Regulations, then the operator may appeal the lead agency's inaction or denial of financial assurances to the Board within 15 days of exhausting his/her rights to appeal according to the procedures of the lead agency. The Board may either accept or decline to hear the appeal based on the evidence supplied by the appellant in its request.

Reference: SMARA Section 2770(e)(f)(g).

### (6) Does the Department Review Financial Assurances and What is the Department's Review Process?

SMARA states that the lead agency approves all financial assurances, and any amendments thereto; however, the Department must have the opportunity to review all financial assurances, and any amendments, 45 days prior to lead agency approval. The Department review period shall start upon the Department's receipt of the proposed financial assurance, and end 45 calendar days after receipt. The financial assurance

should be forwarded to the Department for review after review and preliminary approval of the assurance. The Department will review the proposed financial assurance for its consistency with the requirements provided by SMARA Sections 2770, 2773.1. Should the Department find the financial assurance to be inconsistent with statutory requirements, written comments specifying the deficiency(ies), and, if appropriate, suggested corrections will be forwarded to the lead agency for consideration. Should the lead agency's position vary with the Department's recommendations and objections regarding the financial assurance, or any amendments thereto, the lead agency must submit to the Department a statement of findings specifying the reasons for such action. Any amendments or changes to an existing financial assurance must be submitted to the Department for review prior to lead agency approval of the changes.

Reference: SMARA Sections 2774(c)-(d).

### (7) What is the Amount of the Financial Assurances?

The amount of the financial assurance must be adequate to ensure that the lead agency or the Department can reclaim, pursuant to the approved reclamation plan, the mined lands (as defined by SMARA Section 2729) subject to the assurance described above.

Reference: SMARA Section 2773.1(a).

### (8) How Should the Amount of the Financial Assurances be Calculated?

The Board recognizes that the amount of financial assurance is based on the size and type of operation per the approved reclamation plan. The amount of financial assurance must be calculated on a site specific basis.

The amount of the financial assurance should be calculated by the mine operator, a licensed engineer, or other professional experienced in the reclamation of mined lands, and based on: (1) an analysis of the physical activities necessary to implement the approved reclamation plan; (2) the lead agency's (or a third party contract) unit costs for each of these activities; (3) the number of units of each of these activities; and (4) an amount to cover contingency costs, (not to exceed 10% of the above calculated reclamation cost) and actual lead agency administrative costs. The calculated amount should not include the cost of completing the mining of the site. The value of mined material stockpiles located on the plant site should not be used to off-set the cost of reclaiming the plant site. The estimate used in determining the calculated amount of reclamation of the physical plant site, e. g. dismantling or removing the equipment, structures, and related facilities, may be net of the surplus/salvage value of the facilities to be reclaimed.

Documentation of the calculation should be made available for lead agency and Department review. Comments on acceptable procedures for the calculation of the amount of financial assurances are presented in Appendices A and [illegible]. Third party estimates, bids, or cost calculations from a [illegible] company or contractor for performing reclamation of the phy[illegible] plant, or for establishing the surplus/salvage value for the [illegible] structures, equipment and related facilities to be remo[illegible] should contain the following information:

(a) name and location of company or contractor
(b) statement of qualifications and experience
(c) location of mine site & California Mine ID#
(d) description of work to be done
(e) net cost of such work
(f) dates that third party estimates, bid, or cost calc[illegible] tions is in force
(g) signature of responsible party

Third party estimates of the surplus/salvage value of [illegible] plant structures, equipment and related facilities to [illegible] reclaimed may also be based upon bids or quotes fr[illegible] companies in the business of buying scrap metals or sim[illegible] products.

In the event that the approved reclamation plan lacks s[illegible] cific details for implementation, the unit activities necess[illegible] to reclaim the mined site should be detailed in a man[illegible] that provides for the approved end use, and the unit costs a[illegible] number of units should be calculated. Documentation of [illegible] calculation should be made available for lead agency a[illegible] Department review.

Reference: SMARA Section 2773.1(a).

### (9) What is the Difference Between a "Financ[illegible] Assurance" and a "Financial Assurance Mechanism"

A "financial assurance" is an assurance that reclamati[illegible] will be completed on mined lands pursuant to the approv[illegible] reclamation plan. A "financial assurance mechanism" is t[illegible] instrument that serves as the financial assurance, such as[illegible] surety bond, trust fund or irrevocable letter of credit.

Reference: SMARA Sections 2770(a); and 2773.1(a)(1).

### (10) What Types of Financial Assurance Mechanism[illegible] are Acceptable?

**1. Surety Bonds**. A surety bond is an indemnity agre[illegible] ment in an amount certain executed by either (1) the mi[illegible] operator as principal and surety(ies) or (2) the surety(ies) alon[illegible]

Surety bonds must meet the applicable requirements [illegible] the California Code of Civil Procedures, Part 2, Title 14, con[illegible] mencing with section 995.010 (see Appendix B).

Surety bonds should be issued for a specific period [illegible] time and should not be cancelable by the mining operator u[illegible] til new financial assurances are approved by the lead agenc[illegible]

er Department review. In addition, bonds should include a ause requiring the notice of cancellation to the lead agency d the Department a minimum of 120 days prior to any such ncellation to ensure the mining operator provides sufficient tice to fulfill the requirements of SMARA Section 2773.1(b).

**2. Trust Funds.** Trust funds are cash or cash certain financial devices put up by the mine operator. They may take e form of:

(a) a cash account deposited in one or more federally insured accounts,

(b) negotiable bonds, "held in escrow," of the United ates, a state, county, or municipality endorsed by the mine erator, and rated "A" or better by a nationally recognized nd rating organization ("zero-coupon bonds" including "savgs bonds" and some types of coupon municipal bonds may used at their current market value as determined annually, t may not be used at their value at maturity before maturity curs),

(c) negotiable certificates of deposit in one or more federly insured depositories.

The lead agency, the Department and the bank holding the funds should maintain a record of the lead agency pproved trust fund. Cash accounts and certificates of deposit ould not exceed the applicable FDIC, FSLIC or insured count limits. Interest earned is not part of the financial surance and should be payable to the mining operator at his/r discretion.

**3. Irrevocable Letters of Credit.** A letter of credit is a tter from any bank authorized to do business in the State of lifornia granting credit on behalf of the mine operator.

Letters of credit should be for a specific period of time d must not be revocable by the mining operator until reclaation is completed pursuant to the approved reclamation plan d the lead agency issues a notice of release to the operator, the letter of credit is replaced with another acceptable ancial assurance mechanism.

**4. Other Financial Assurance Mechanisms Specified the Board.** Regulations adopted by the Board specifying ernative mechanisms shall be implemented by these guideles.

ference: SMARA Section 2773.1(a)(1).

### (11) Who Selects the Financial Assurance Mechanism?

The choice of the type of financial assurance mechanism ould be that of the mine operator as long as the lead agency termines the financial assurance is adequate to perform recmation in accordance with the approved reclamation plan. The mining operator may exchange one acceptable financial assurance mechanism with another acceptable mechanism of equivalent coverage so long as there is no lapse in coverage and the new financial assurance is approved by the lead agency after Department review.

Reference: SMARA Sections 2773.1(a)(1)-(4).

### (12) To Whom Must the Financial Assurance Mechanism be Made Payable?

The financial assurance must be made payable to the Lead Agency and, in the alternative, the Department of Conservation. The financial assurance may also be made payable to additional public agencies, including federal agencies responsible for enforcing reclamation requirements over the mining operation. (See Appendix C for examples of the appropriate wording.) The financial assurance mechanism may not be made payable to or assigned to the surface mining operator. The operator may not be named as a beneficiary on the financial assurance.

Reference: SMARA Section 2773.1(a)(4).

### (13) What Format Should be Used for the Financial Assurance Mechanism?

Examples of acceptable formats for Irrevocable Letter of Credit and Certificate of Deposit financial assurances are presented in Appendices D and F. The lead agency may accept these or other equivalent formats. Surety Bonds must be in a format approved by the Attorney General. Surety Bond forms in Appendices E-1, E-2, E-3, E-4, and E-5 have been approved by the Attorney General. [Added 6/10/98]

### (14) What is the Period of Liability for the Operator?

The mine operator is responsible for maintenance of financial assurances (as specified in Article No. 3 of these Guidelines) continuously throughout the life of the mining operation, (including idle periods and extended monitoring periods), until the reclamation is completed, pursuant to the approved reclamation plan and the lead agency has approved the release of the financial assurances. The financial assurance mechanism need not be for the life of the mine, so long as a sequence of mechanisms is maintained which provide continuous coverage without lapse.

Reference: SMARA Sections 2770(h); 2773.1(a); and 2773.1(a)(2).

### (15) What Term is Acceptable for the Financial Assurance Mechanism?

The financial assurance mechanism can be for the life of the mine or a lesser period of at least one year. The mechanism should remain in effect for the specified term of coverage plus an additional 120 days, during which time the lead agency can take the necessary steps to collect the financial

assurance. The additional period of 120 days is not needed if a subsequent mechanism has been offered to and approved by the lead agency. Proof of a new, renewed or existing financial assurance must be provided annually to the lead agency and the Department pursuant to Public Resources Code Section 2207. Proof of the new or renewed financial assurance should be submitted prior to the existing financial assurance mechanism's expiration date.

Reference: SMARA Section 2773.1(a)(2); and Public Resources Code Section 2207(a)(9).

### (16) When Should the Amount of the Financial Assurance be Adjusted?

The amount of the financial assurance must be reviewed annually by the lead agency and, if necessary adjusted to reflect changes in: (1) the cost of reclamation (as reflected in the Construction Cost Index or other generally used index), pursuant to the approved reclamation plan, of lands disturbed since January 1, 1976; (2) lands reclaimed in the previous year to the satisfaction of the lead agency; and (3) lands to be disturbed in the next year. In addition, when an approved reclamation plan is amended, and the amendment is approved by the lead agency, after Department review, financial assurances should be adjusted accordingly.

Reference: SMARA Section 2773.1(a)(3).

### (17) When Should Financial Assurance for a New Surface Mining Operation be Provided?

The financial assurance must be approved by the lead agency, after Department review, prior to the start of any mining activities. The financial assurance should be submitted after lead agency approval of the reclamation plan. Financial assurances for new surface mining operations must be calculated, reviewed, and approved in the same manner as financial assurances for existing mining operations. The mine operator should offer to the lead agency a financial assurance for its approval and the Department must have the opportunity to review the financial assurance 45 days prior to such approval. The financial assurance should provide for the performance of the approved reclamation plan for the land that will be disturbed in the next year.

Reference: SMARA Section 2770(a).

### (18) Are Financial Assurances Required for "Idle" Mines?

Financial assurances are required for idle mines in an amount sufficient to reclaim, pursuant to the lead agency approved reclamation plan, lands disturbed since January 1, 1976, lands to be disturbed in the next year, and lands not reclaimed successfully pursuant to the approved reclamation plan. Financial assurances for idle mines must be calculated, reviewed and approved in the same manner as financ assurances for active mining operations.

Reference: SMARA Section 2770(h)(2).

### (19) What Must be Done with the Financial Assuran When a Mining Operation is Sold or Ownership Otherwise Transferred?

When a mining operation is sold, or ownership is othe wise transferred, the original owner's financial assurance mu remain in effect until the lead agency has approved, aft Department review, the replacement assurances. The pri owner's financial assurance should be released only upo the approval by the lead agency of the replacement financi assurance. (A replacement financial assurance must b approved in the same manner as the existing financial assu ance).

Reference: SMARA Section 2773.1(c).

### (20) When Should a Financial Assurance b Released?

When the operator has completed reclamation, th operator should request a written notice from the lead agenc that reclamation has been completed pursuant to the approve reclamation plan. Within 60 days of the lead agency's receip of such a request, the lead agency should determine if recla mation has been completed pursuant to the approved recla mation plan. Prior to making this determination, the lea agency should conduct an inspection of the mining operation and, if necessary, a review of pertinent records, and otherwis satisfy itself that reclamation of the site has been completed that any required extended monitoring periods have expired and that reclamation standards as specified in the approve reclamation plan have been met.

Upon determining that reclamation has been successfully completed and prior to releasing the financial assurances, the lead agency should notify the operator, the Department, and any other coassignees-assignees, indicating reclamation has been completed pursuant to the approved reclamation plan and specifying the date the financial assurances are proposed to be released. This notice should allow a reasonable time for the Department and other coassignees to comment on the proposed release.

If the lead agency determines that reclamation has not been successfully completed, it should provide the operator with written notification of its determination along with a list of the specific actions required to successfully complete reclamation pursuant to the approved reclamation plan and obtain release of the financial assurance.

Reference: SMARA Section 2773.1(c)

# Appendix A

## RECLAMATION COST ESTIMATE CALCULATIONS

The preparation of reclamation cost estimates is a step-by-step process for calculation the amount of financial assurances necessary to perform site reclamation. The calculation will differ between locations based on the tasks necessary to implement the approved reclamation plan.

In response to inquiries from lead agencies and mine operators for guidance, the following Example of a Financial Assurance Cost Estimate work sheet is offered. This information is provided as a guideline only. The work sheets are not to be interpreted by lead agencies or mine operators as a mandated format for estimating reclamation costs.

Although an individual mining operation may encounter conditions not listed on the work sheets, through the application of basic estimating principles, most tasks can be broken down into component parts, and simplified. The following methodology (or one similar) may be considered in the development of reclamation cost estimates. The idea is to simplify the tasks and provide justification for the listed costs; merely listing the costs is not adequate.

Describe the task to be performed. Examples would include: spoil grading, highwall reduction, revegetation, etc. Following the identification of broad reclamation categories, the component parts of these tasks should be identified. For example, revegetation may include seed bed preparation, seeding and fertilizing, irrigation and weed control. Each of these subtasks should be estimated individually to simplify the overall process. Where grading of a pit area is part of the reclamation plan, it is recommended that cross-sections and maps of pit areas be used to justify grading quantities.

Identify the equipment necessary to complete the proposed task.

Identify the labor requirements.

Identify the materials to be used.

Define each of the unit costs.

Calculate production rates.

Multiply the unit cost (e.g., $/hr) by production rate (e.g., cubic yards/hr) to determine the total cost for each cost item (e.g., scrapers). Add the costs for all cost items to find the total cost per category (e.g., equipment).

- Add total cost of all categories (i.e., equipment, labor, materials, etc.) to determine the total direct cost of reclamation.

A number of cost estimating manuals are available to assist you with the preparation of your financial assurance cost estimates. These manuals are available in government and technical book stores. It is often helpful to rely on a variety of sources, as not all categories are clearly defined and in some cases they are not listed at all. Personal experience can be a good indicator of the actual cost of performing certain tasks; however, the estimator should endeavor to provide justification for all listed costs.

Following is a list of references that may be helpful in calculating reclamation bond estimates:

1. ***The Cost Estimating Guide for Road Construction***, 1988, USDA Forest Service, Intermountain Region, 324 25th Street, Ogden, UT 84401. This publication contains information on road obliteration, earth moving, equipment rental, and wage rates. It is important to remember that equipment rental and wage rates vary, both geographically and with time. In determining labor rates and heavy equipment costs, local rates or rates prevailing in the area of the nearest source should be used.

2. ***The Cost Reference Guide for Construction Equipment***, 1988. The Equipment Guide Book Company (commonly referred to as "The Blue Book"). This lists guidelines for calculating equipment performance and costs per unit of material removed.

3. ***The Mine Cost Service***, 1989, Western Mine Engineering, P.O. Box 9008, Spokane, WA 99209. This publication lists prices and costs for labor, equipment, supplies, transportation, etc. Most Regional Office Mineral Staffs and Mineral Examiners have updated copies and are available to assist in providing helpful information and data for mineral operation costs.

4. ***The Mineral Industry Costs***, 1977 and 1981, Northwest Mining Association, 633 Peyton Building, Spokane, WA 99201. These publications provide data on time, risk factors, costs, assessing costs, and estimating various project costs. The costs are in 1980 dollars and an adjustment of 1980 dollars to current dollars must be made. Most mining engineers and geologist can supply the factor needed to make the conversion.

5. ***Means Heavy Construction Cost Data***, 6th Annual Edition, 1992, R.S. Means Company, Inc., Construction Consultants and Publisher, 100 Construction Plaza. P.O. Box 800, Kingston, MA 02364-0800. Telephone (617) 585-7880. The manual provides current equipment and labor rates for a variety of heavy construction activities. This manual is difficult for the beginning estimator to use; however, through practice and familiarity, most tasks can be estimated with a reasonable expectation of accuracy. If questions arise concerning the location or application of certain construction activities, the estimating department will assist with questions by telephone.

6. ***Handbook for Calculation of Reclamation Bond Amounts***, 1987, United States Department of the Interior, Office of Surface Mining Reclamation and Enforcem 1951 Constitution Avenue NW, Washington D.C., 202 This handbook provides and array of examples for e mating common mining reclamation activities. The pu cation is not recommended for use by the beginning e mator. Proper application of the concepts illustra requires advanced estimating and technical skills.

7. ***Caterpillar Performance Handbook***, 1991, Caterpil Inc., Peoria, IL. This handbook lists the equipment spe fications and production capabilities of all Caterpil equipment. It is particularly useful for identifying equ ment capabilities, various modification and product rates.

## FINANCIAL ASSURANCES GUIDELINES

Site of California
DEPARTMENT OF CONSERVATION
Financial Assurance Cost Estimate
Form OMR-23 (New 06/96)

**Appendix A-1**
**(example)**

# FINANCIAL ASSURANCE COST ESTIMATE

# FOR

_____

CA MINE ID # 91-_____

Prepared by:

_____

_____

_____

Date:_____

**Note**: This worksheet was developed by the Office of Mine Reclamation to assist lead agencies and operators prepare a reclamation cost estimate and determine an appropriate amount for the financial assurance in conformance with Section 2773.1 of SMARA. It should be used in conjunction with the Financial Assurance Guidelines adopted by the State Mining and Geology Board. Like the guidelines, it is advisory only.

# Appendix A-1

## INSTRUCTIONS

The worksheet is divided into seven sections to simplify the cost analysis process. Below is a list of instructions for each ection. Please read them carefully before filling out the form. If a section is not applicable, please indicate so with a brief tatement. An equipment list is provided after Section 7 for summarizing equipment used for reclamation. In addition, a page is rovided at the end of the form for notes and calculations. Copies of supporting documentation such as contractor estimates hould also be attached.

### ection I—Primary Reclamation Activities

This section should be used to calculate direct costs associated with primary reclamation activities. These activities include, but are not limited to: establishing final slopes on all cuts and fills, removal of haul/access roads, constructing drainage/ rosion controls, decompacting staging/stockpile areas, demolition and disposal of building foundations and other debris as well as underground structures (i.e., storage tanks and septic systems), cleanup of boneyard areas, well closure, topsoil replacement/ redistribution, finish grading, remediation of any soil contamination, and establishing access restrictions.

Refer to the approved reclamation plan to determine the various tasks required to reclaim the site. If the reclamation plan s not specific enough to provide this information, the lead agency should be consulted to help determine your reclamation equirements. Using the form provided, estimate the costs for each task by: 1) briefly describing the reclamation task to be erformed and the methods to be implemented; 2) completing the calculation tables; and 3) adding the results at the bottom of he page. It may make it easier to break large mine sites into smaller areas and address each area separately. If this is done, make opies of the worksheet page and fill them out for each reclamation task and area. Page numbers were intentionally left off for his purpose so be sure to number the pages as they are completed.

### ection II—Revegetation

This section should be used to calculate direct costs associated with revegetating disturbed areas. Revegetation activities nclude, but are not limited to: soil preparation/amendment, mulching, installation of irrigation systems, custom seed/plant ollection, nursery services, hydroseeding, seed/plant installation, plant protection, and remediation.

Refer to the approved reclamation plan or revegetation program to determine the various tasks and materials required to evegetate the site. Follow the procedures discussed in Section I to estimate the costs for each task. Be sure to provide the unit f measure (i.e., pallet, pound, ton) in the materials table for the type of material to be used.

### ection III—Plant Structures and Equipment Removal

This section should be used to calculate the costs associated with dismantling and removal of plant structures and equipment. The Financial Assurance Guidelines adopted by the State Mining and Geology Board provide that the cost to reclaim the lant site may be net of the surplus/salvage value of the facilities to be reclaimed. Please note however, that the value of mined naterial stockpiles located within the plant site area cannot be used to offset the cost of their removal. This reclamation cost hould be provided in the primary reclamation activities section.

Refer to the approved reclamation plan to determine the tasks required to reclaim and remove the plant structures and quipment. Estimate these costs using the tables provided. To establish the salvage value of the plant site an estimate, bid or cost alculation from an impartial company or contractor which provides industrial dismantling or equipment salvage services, or is n the business of buying and selling scrap metals or similar products, must be provided. The estimate, bid or cost calculation hould contain the following information:

a. Name & location of company or contractor
b. Statement of qualifications and experience
c. Location of mine site & California Mine ID#
d. Description of work to be done
e. Cost of such work
f. Net salvage value of equipment/material
g. Effective period of estimate or bid
h. Signature of responsible party

Follow the directions provided in subsection E to determine if the cost to remove the plant equipment may be offset by i salvage value.

## Section IV—Miscellaneous Costs

This section should be used to list any miscellaneous costs for materials, labor or services required to complete fin reclamation and closure of the site (i.e., plant decommissioning, lead agency final inspections, reclamation mitigation me sures, etc.). Using the table provided, list the item or service needed, the quantity, its unit cost (if appropriate) and total co Indicate the sum of these costs at the bottom of the page.

## Section V—Monitoring

This section should be used to list the costs associated with any required monitoring of the site once initial reclamation h been completed. This could include monitoring for successful revegetation and habitat establishment, slope stability, erosi control, access controls, or site remediation (i.e., process reagents/hydrocarbons). Monitoring required by other agencies (i.e California Regional Water Quality Control Board) and covered under a separate financial assurance need not be listed. Usir the table provided, list the monitoring task, the cost per site visit, the number of site visits per year, the number of monitorir years and total cost. Indicate the sum of these costs in the space provided below the table. If a consultant will be conducting th monitoring, provide a copy of his/her estimate or contract.

## Section VI—Supervision / Profit & Overhead / Contingencies / Mobilization

This section includes the costs associated with supervision of reclamation activities, profit and overhead, contingenci (unforeseen costs) and mobilization (the cost of moving equipment to and from the site). These costs are based on a percenta of the total direct costs and normally decline as the value of the operation increases. Refer to Graph 1 and Graph 2 to determi the percentage rates to be used.

## Section VII—Summary of Costs

This section should be used to determine the total cost of reclamation and the amount of the financial assurance. Add all th cost sheets from each section together and place their totals in the spaces provided. The lead agency should determine ho much, if any, administrative cost is to be added.

**Appendix A-1**

## I. PRIMARY RECLAMATION ACTIVITIES

Page _____ of _____

Description of Task:

Methods to be Used:

Miscellaneous Information:

Overburden (cubic yards): _____ Topsoil (cubic yards): _____ Acres: _____
Production Rate (cubic yards/hour): 1. _____ 2. _____ 3. _____ 4. _____
Haul Distance (feet): 1. _____ 2. _____ 3. _____ 4. _____

A. Equipment—List all equipment required to complete identified task. For large reclamation jobs, separate mine areas for ease of accounting.

| Equipment | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |

Total Equipment Cost for this Task $ _____

B. Labor—List all labor categories to complete identified task.

| Labor Category | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Labor Cost for this Task $ _____

C. Materials—List all materials required to complete identified task (include disposal costs).

| Item | Quantity | $/Unit | Cost ($) |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

Total Materials Cost for this Task $ _____

D. Direct Cost for this Task

Equipment Cost + Labor Cost + Materials Cost = $ _____

**Appendix A**

## II. REVEGETATION

Page _____ of ___

Description of Task:

Methods to be Used:

A. Equipment—List all equipment required to complete identified task.

| Equipment | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Equipment Cost for this Task $ _____

B. Labor—List all labor categories to complete identified task.

| Labor Category | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Labor Cost for this Task $ _____

C. Materials—List all materials required to complete identified task.

| Item / Plant Species | Unit of Measure | # of Units | $/Unit | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Materials Cost for this Task $ _____

D. Direct Cost for this Task

Equipment Cost + Labor Cost + Materials Cost = $ _____

**Appendix A-1**

## PLANT STRUCTURES AND EQUIPMENT REMOVAL

Page _____ of _____

scription of Task:

thods to be Used:

Equipment—List all equipment required to complete identified task.

| Equipment | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Equipment Cost for this Task $ _____

Labor—List all labor categories to complete identified task.

| Labor Category | Quantity | $/Hour | # of Hours | Cost ($) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Total Labor Cost for this Task $ _____

Demolition—List all structures and equipment to be dismantled or demolished.

| Structure/Equipment | Type of Material | Volume (cubic feet) | Unit Cost Basis | Disposal Cost ($) | Cost ($) |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total Materials Cost for this Task $ _____

Direct Cost for this Task

Equipment Cost + Labor Cost + Demolition Cost = $ _____

**Appendix A**

Page _____ of__

E. Surplus / Salvage Value

1. Total cost to reclaim plant structures and equipment pursuant to the approved reclamation plan. $ _____

2. Net salvage value of the plant structures and equipment.* $ _____

3. Subtract Line 2 from Line 1 $ _____

4. If Line 3 is greater than $0, enter this amount on the total plant structures and equipment removal cost line under Section VIII (Summary of Costs). If Line 3 is less than $0, enter $0 on the appropriate line in Section V

*NOTE This is the value of plant structures, buildings and equipment on a salvage basis — e.g. after the structures and equipment h been removed for sale or use off-site. In order to include net salvage value in the financial assurance calculation, the operator must pro a letter of agreement, signed contract, bid or quote from an independent company which provides industrial dismantling or equipm salvage services, or is in the business of buying and selling scrap metals or similar products.

## IV. MISCELLANEOUS COSTS

Examples of this type of cost could include temporary storage of equipment and materials off site, special one-time permits (i.e. transportation permits for extra wide or overweight loads, etc.), decommissioning a process mill (i.e. decontamination of equipment), or disposal of warehouse inventories.

| Item / Task | Quantity | $/Unit | Cost ($) |
|---|---|---|---|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |
| 7. | | | |
| 8. | | | |
| 9. | | | |
| 10. | | | |

Total Miscellaneous Costs $ _____

## V. MONITORING

| Monitoring Task | $/Visit | # Visits/Year | # of Monitoring Years | Cost ($) |
|---|---|---|---|---|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |

Total Monitoring Costs $ _____

## Appendix A-1

Page _____ of _____

### SUPERVISION/PROFIT AND OVERHEAD/CONTINGENCIES/MOBILIZATION

A. Supervision—Supervision or reclamation management includes project inspection and supervision. These activities are usually performed by a consultant or staff member with experience in reclamation of disturbed lands. Reclamation management may include recommending change orders, verifying completed work, verifying compliance with project specifications, and other reclamation management oversight activities. Please refer to Graph No. 1 to determine the supervision cost factor.

B. Profit and Overhead—Where it becomes necessary for the Lead Agency or the Department of Conservation to complete reclamation of the mining site, a third party will be retained to do the actual reclamation work. Because profit and overhead costs are not included in the reclamation cost sheets, these costs must be added to the total reclamation estimate. Please refer to Graph No. 2 to determine the profit and overhead cost factor.

C. Contingencies—A contingency cost should be included in the financial assurance estimate to provide for project uncertainties and unexpected natural events. The U.S. Department of the Interior, Office of Surface Mining publishes the Handbook for Calculation of Reclamation Bond Amounts which recommends contingency percentages be based upon the level of direct costs, as shown below:

| Total Direct Cost ($) | Contingency (%) |
|---|---|
| 0 to $500,000 | 10 |
| $500,00 to $5 million | 7 |
| $5 million to $50 million | 4 |
| Greater than $50 million | 2 |

D. Mobilization—Mobilization costs are attributed to moving equipment to the project site for reclamation purposes. These costs normally range between one and five percent of the total direct cost of the reclamation operations. These costs will vary depending upon the site location and the total value of the reclamation operations to be performed. Please insert the percentage used to estimate mobilization costs

under Section VIII—Summary of Costs.



## VII. SUMMARY OF COST

| | | |
|---|---|---|
| Total of all Primary Reclamation Activities Costs | | $ _____ |
| Total of all Revegetation Costs | | $ _____ |
| Total of all Plant Structures and Equipment Removal Costs | | $ _____ |
| Total of all Miscellaneous Costs | | $ _____ |
| Total of all Monitoring Costs | | $ _____ |
| | Total of Direct Costs | $ _____ |
| Supervision ( _____%) | | $ _____ |
| Profit/Overhead ( _____%) | | $ _____ |
| Contingencies ( _____ %) | | $ _____ |
| Mobilization ( _____ %) | | $ _____ |
| | Total of Indirect Costs | $ _____ |
| | Total of Direct and Indirect Costs | $ _____ |
| | Lead Agency Administrative Cost* (Determined by the Lead Agency) | $ _____ |
| | **Total Estimated Cost of Reclamation** | $ _____ |

*__NOTE:__ The Financial Assurance Guidelines recommend that when reviewing and approving a financial assurance cost estimate, lead agencies should include their administrative cost to draw on the financial assurance and implement the reclamation plan, should it become necessary.

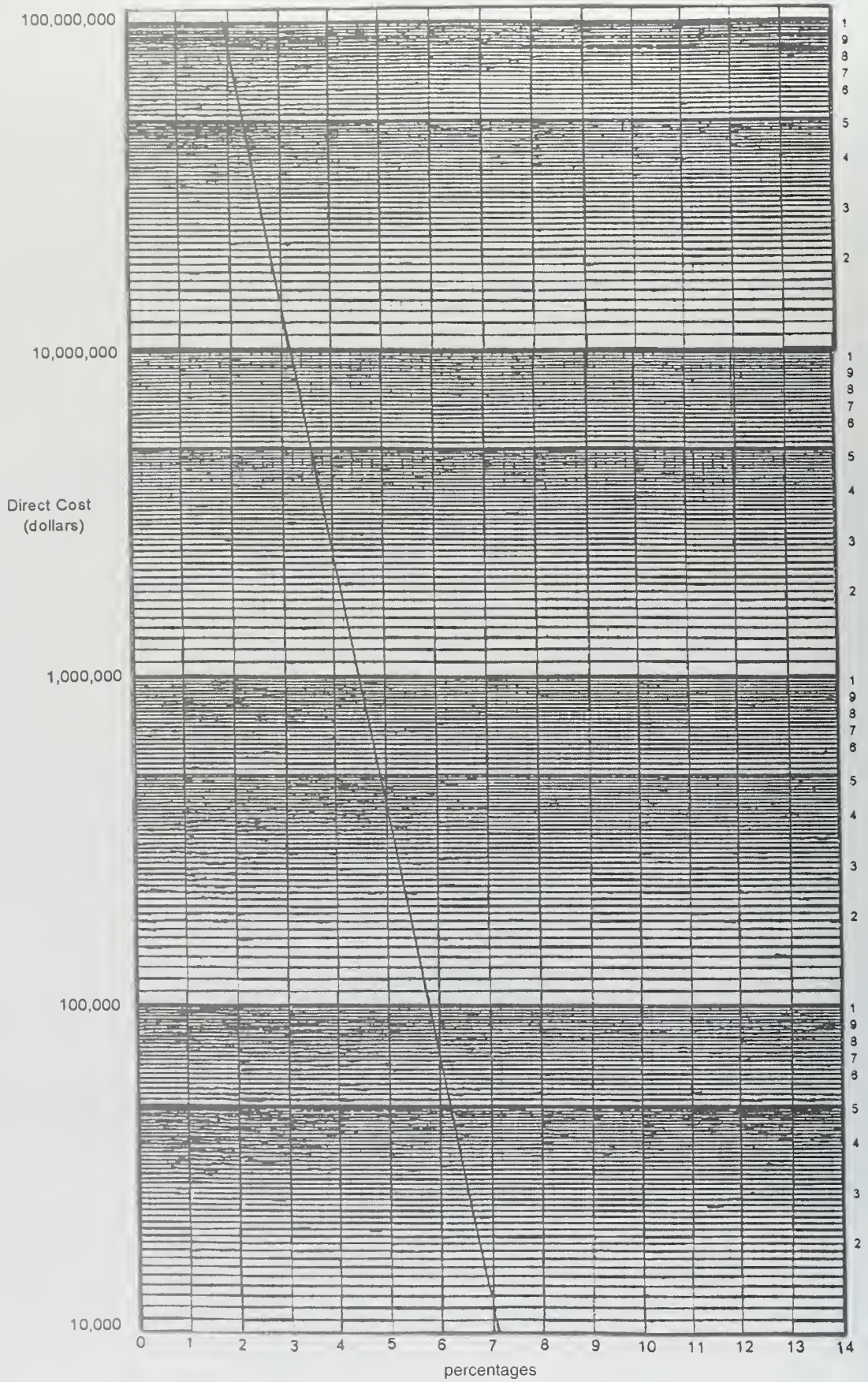
## Appendix A-1

### EQUIPMENT LIST

h attachment may be used to list the number and type of equipment to be used during reclamation. /e in the equipment under the general categories provided. If there is no category for the type of q pment to be used, please list it under the category entitled "Other Equipment."

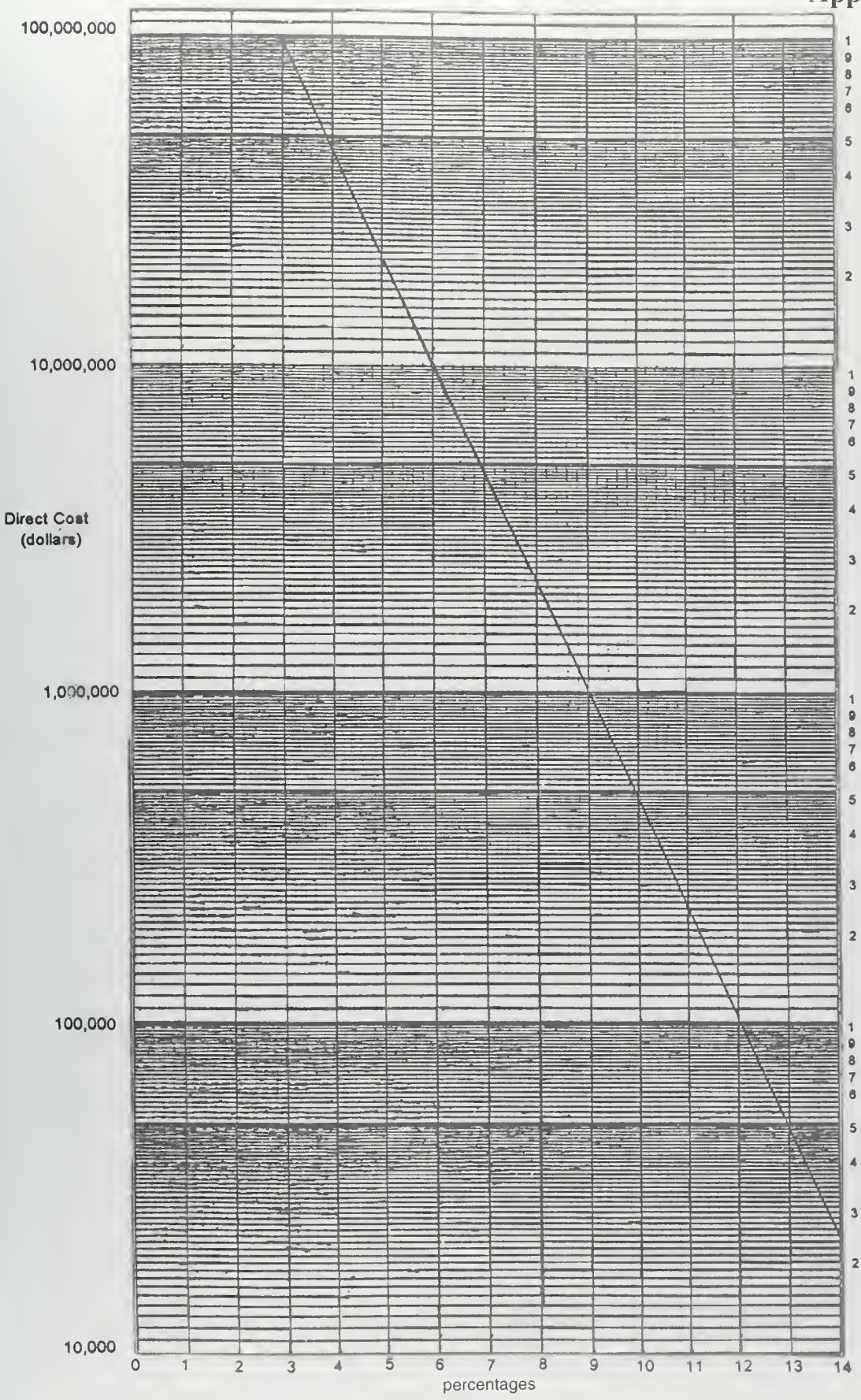
| TRACTORS | | EXCAVATORS | | TRACTOR ATTACHMENTS | |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| MOTOR GRADERS | | ARTICULATED TRUCKS | | OTHER EQUIPMENT | |
| | | | | | |
| | | | | | |
| | | | | | |
| LOADERS | | HAUL TRUCKS (Off Hwy) | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| BACKHOES | | HAUL TRUCKS (On Hwy) | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| SCRAPERS | | WATER TRUCKS | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

## Appendix A




Graph 1. Reclamation management.

## Appendix A-1




Graph 2. Profit and overhead. *R.S. Means Co., Inc., 44th edition.*

# Appendix B

[This Appendix contains selected provisions from the California Bond and Undertaking Law which may be applicable. Other provisions of statutory and case law may also be applicable. Consult a lawyer for legal advice if needed.]

## THE CALIFORNIA CODE OF CIVIL PROCEDURE
## PART 2. CIVIL ACTIONS
## TITLE 14. MISCELLANEOUS PROVISIONS
## CHAPTER 2. BONDS AND UNDERTAKINGS

§995.010. — This chapter shall be known and may be cited as the Bond and Undertaking Law.

§995.020. — (a) The provisions of this chapter apply to a bond or undertaking executed, filed, posted, furnished, or otherwise given as security pursuant to any statute of this state, except to the extent the statute prescribes a different rule or is inconsistent.

(b) The provisions of this chapter apply to a bond or undertaking given at any of the following times:

(1) On or after January 1, 1983.

(2) Before January 1, 1983, to the extent another surety is substituted for the original surety on or after January 1, 1983, or to the extent the principal gives a new, additional, or supplemental bond or undertaking on or after January 1, 1983. Except to the extent provided in this section, the law governing a bond or undertaking given before January 1, 1983, is the law applicable to the bond or undertaking immediately before January 1,1983, pursuant to Section 414 of Chapter 517 of the Statutes of 1982.

(c) The provisions of this chapter do not apply to a bail bond or an undertaking of bail.

§995.030. — If service of a notice, paper, or other document is required under this chapter, service shall be made in the same manner as service of process in civil actions generally.

§995.040. — An affidavit made under this chapter shall conform to the standards prescribed for an affidavit made pursuant to Section 437c.

§995.050. — The times provided in this chapter, or in any other statute relating to a bond given in an action or proceeding, may be extended pursuant to Sections 1054 and 1054.1.

§995.110. — Unless the provision or context otherwise requires, the definitions in this article govern the construction of this chapter.

§995.120. — (a) "Admitted surety insurer" means a corporate insurer or a reciprocal or interinsurance exchange to which the Insurance Commissioner has issued a certificate of authority to transact surety insurance in this state, as defined in Section 105 of the Insurance Code.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the phrases "admitted surety insurer," "authorized surety company," "bonding company," "corporate surety," and comparable phrases used in the statute mean "admitted surety insurer" as defined in this section.

§995.130. — (a) "Beneficiary" means the person for whose benefit a bond is given, whether executed to, in favor of, in the name of, or payable to the person as an obligee.

(b) If a bond is given for the benefit of the State of California or the people of the state, "beneficiary" me the court, officer, or other person required to determine the sufficiency of the sureties or to approve th bond.

(c) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "beneficiary," "obligee," and comparable terms used in the statute mean "beneficiary" as define this section.

§ 995.140.— (a) "Bond" includes both of the following:

(1) A surety, indemnity, fiduciary, or like bond executed by both the principal and sureties.

(2) A surety, indemnity, fiduciary, or like undertaking executed by the sureties alone.

(b) A bond provided for or given "in an action or proceeding" does not include a bond provided for, or given as, a condition of a license or permit.

§ 995.150. — "Court" means, if a bond is given in an action or proceeding, the court in which the action or proceeding is pending.

§ 995.160. — "Officer" means the sheriff, marshal, constable, clerk of court, judge or magistrate (if there is no clerk), boa commission, department, or other public official or entity to whom the bond is given or with whom a copy the bond is filed or who is required to determine the sufficiency of the sureties or to approve the bond.

§ 995.170. — (a) "Principal" means the person who gives a bond.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "obligor," "principal," and comparable terms used in the statute mean "principal" as defined in t section.

§ 995.180. — "Statute" includes administrative regulation promulgated pursuant to statute.

§ 995.185.— (a) "Surety" has the meaning provided in Section 2787 of the Civil Code and includes personal surety and admitted surety insurer.

(b) For the purpose of application of this chapter to a bond given pursuant to any statute of this state, the terms "bail," "guarantor," "bondsman," "surety," and comparable terms used in the statute mean "surety as defined in this section.

§ 995.190. — "Undertaking" means a surety, indemnity, fiduciary, or like undertaking executed by the sureties alone.

§ 995.210. — Unless the provision or context otherwise requires:

(a) If a statute provides for a bond, an undertaking that otherwise satisfies the requirements for the bond ma be given in its place with the same effect as if a bond were given, and references in the statute to the bor shall be deemed to be references to the undertaking.

(b) If a statute provides for an undertaking, a bond that otherwise satisfies the requirements for the undertak ing may be given in its place with the same effect as if an undertaking were given, and references in the statute to the undertaking shall be deemed to be references to the bond.

§ 995.310. — Unless the statute providing for the bond requires execution by an admitted surety insurer, a bond shall be executed by two or more sufficient personal sureties or by one sufficient admitted surety insurer or by any combination of sufficient personal sureties and admitted surety insurers.

§995.320. — (a) A bond shall be in writing signed by the sureties under oath and shall include all of the following:

(1) A statement that the sureties are jointly and severally liable on the obligations of the statute providing for the bond.

(2) The address at which the principal and sureties may be served with notices, papers, and other documents under this chapter.

(3) If the amount of the bond is based upon the value of property or an interest in property, a description of the property or interest, and the principal's estimate of the value of the property or interest, or if given pursuant to the estimate of the beneficiary or court, the value as so estimated.

(b) The sureties signing the bond are jointly and severally liable on the obligations of the bond, the provisions of this chapter, and the statute providing for the bond.

§995.370. — At the time a bond is given, the principal shall serve a copy of the bond on the beneficiary. An affidavit of service shall be given and filed with the bond.

§995.380. — (a) If a bond does not contain the substantial matter or conditions required by this chapter or by the statute providing for the bond, or if there are any defects in the giving or filing of the bond, the bond is not void so as to release the principal and sureties from liability.

(b) The beneficiary may, in proceedings to enforce the liability on the bond, suggest the defect in the bond, or its giving or filing, and enforce the liability against the principal and the persons who intended to become and were included as sureties on the bond.

§995.410. — (a) A bond becomes effective without approval unless the statute providing for the bond requires that the bond be approved by the court or officer.

(b) If the statute providing for a bond requires that the bond be approved, the court or officer may approve or disapprove the bond on the basis of the affidavit or certificate of the sureties or may require the attendance of witnesses and the production of evidence and may examine the sureties under oath touching their qualifications.

(c) Nothing shall be construed to preclude approval of a bond in an amount greater than that required by statute.

§995.420. — (a) Unless the statute providing for a bond provides that the bond becomes effective at a different time, a bond is effective at the time it is given or, if the statute requires that the bond be approved, at the time it is approved.

(b) If the statute providing for a bond provides that the bond becomes effective at a time other than the time it is given or approved, the bond is effective at the time provided unless an objection is made to the bond before that time. If an objection is made to a bond before the time provided, the bond becomes effective when the court makes an order determining the sufficiency of the bond.

§995.430. — A bond remains in force and effect until the earliest of the following events:

(a) The sureties withdraw from or cancel the bond or a new bond is given in place of the original bond.

(b) The purpose for which the bond was given is satisfied or the purpose is abandoned without any liability having been incurred.

(c) A judgment of liability on the bond that exhausts the amount of the bond is satisfied.

(d) The term of the bond expires. Unless the statute providing for the bond prescribes a fixed term, the bo is continuous.

§ 995.440. — A bond given as a condition of a license or permit shall be continuous in form, remain in full force and effe and run concurrently with the license or permit period and any and all renewals, or until cancellation or wit drawal of the surety from the bond.

§ 995.510. — (a) A personal surety on a bond is sufficient if all of the following conditions are satisfied:

(1) The surety is a person other than the principal. No officer of the court or member of the State Bar s act as a surety.

(2) The surety is a resident, and either an owner of real property or householder, within the state.

(3) The surety is worth the amount of the bond in real or personal property, or both, situated in this st over and above all debts and liabilities, exclusive of property exempt from enforcement of a mone judgment.

(b) If the amount of a bond exceeds ten thousand dollars ($10,000) and is executed by more than two perso sureties, the worth of a personal surety may be less than the amount of the bond, so long as the aggrega worth of all sureties executing the bond is twice the amount of the bond.

§ 995.520. — (a) A bond executed by personal sureties shall be accompanied by an affidavit of qualifications of each sur

(b) The affidavit shall contain all of the following information:

(1) The name, occupation, residence address, and business address (if any) of the surety.

(2) A statement that the surety is a resident, and either an owner of real property or householder, within state.

(3) A statement that the surety is worth the amount of the bond in real or personal property, or both, situated in this state, over and above all debts and liabilities, exclusive of property exempt from enforcement of a money judgment.

(c) If the amount of the bond exceeds five thousand dollars ($5,000), the affidavit shall contain, in addition the information required by subdivision (b), all of the following information:

(1) A description sufficient for identification of real and personal property of the surety situated in th state and the nature of the surety's interest therein that qualifies the surety on the bond.

(2) The surety's best estimate of the fair market value of each item of property.

(3) A statement of any charge or lien and its amount, known to the surety, whether of public record or n against any item of property.

(4) Any other impediment or cloud known to the surety on the free right of possession, use, benefit, o enjoyment of the property.

(d) If the amount of the bond exceeds ten thousand dollars ($10,000) and is executed by more than two sureti the affidavit may state that the surety is worth less than the amount of the bond and the bond may stipul

that the liability of the surety is limited to the worth of the surety stated in the affidavit, so long as the aggregate worth of all sureties executing the bond is twice the amount of the bond.

§ 995.610. — (a) If a statute provides for a bond with any number of sureties, one sufficient admitted surety insurer may become and shall be accepted as sole surety on the bond.

(b) The admitted surety insurer is subject to all the liabilities and entitled to all the rights of personal sureties.

§ 995.620. — Two or more admitted surety insurers may be sureties on a bond by executing the same or separate bonds for amounts aggregating the required amount of the bond. Each admitted surety insurer is jointly and severally liable to the extent of the amount of the liability assumed by it.

§ 995.630. — An admitted surety insurer shall be accepted or approved by the court or officer as surety on a bond without further acknowledgment if the bond is executed in the name of the surety insurer under penalty of perjury or the fact of execution of the bond is duly acknowledged before an officer authorized to take and certify acknowledgments, and either one of the following conditions, at the option of the surety insurer, is satisfied:

(a) A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, is filed in the office of the clerk of the county in which the court or officer is located.

(b) A copy of a power of attorney is attached to the bond.

§ 995.640. — The county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether the certificate of authority of an admitted surety issuer issued by the Insurance Commissioner authorizing the insurer to transact surety insurance, has been surrendered, revoked, canceled, annulled, or suspended, and in the event that it has, whether renewed authority has been granted. The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and in behalf of the insurer, is filed in the office of the clerk.

§ 995.650. — If an objection is made to the sufficiency of an admitted surety insurer, the person making the objection shall attach to and incorporate in the objection one or both of the following:

(a) The certificate of the county clerk of the county in which the court is located stating that the insurer has not been certified to the county clerk by the Insurance Commissioner as an admitted surety insurer or that the certificate of authority of the insurer has been surrendered, revoked, canceled, annulled, or suspended and has not been renewed.

(b) An affidavit stating facts that establish the insufficiency of the insurer.

§ 995.660. — (a) If an objection is made to the sufficiency of an admitted surety insurer on a bond or if the bond is required to be approved, the insurer shall submit to the court or officer the following documents:

(1) The original, or a certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument entitling or authorizing the person who executed the bond to do so, within 10 calendar days of the insurer's receipt of a request to submit the instrument.

(2) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner, within 10 calendar days of the insurer's receipt of a request to submit the copy.

(3) A certificate from the clerk of the county in which the court or officer is located that the certificate o authority of the insurer has not been surrendered, revoked, canceled, annulled, or suspended or, in th event that it has, that renewed authority has been granted, within 10 calendar days of the insurer's receipt of the certificate.

(4) Copies of the insurer's most recent annual statement and quarterly statement filed with the Departme of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Divisi 1 of the Insurance Code, within 10 calendar days of the insurer's receipt of a request to submit the statements.

(b) If the admitted surety insurer complies with subdivision (a), and if it appears that the bond was duly executed, that the insurer is authorized to transact surety insurance in the state, and that its assets exceed its liabilities in an amount equal to or in excess of the amount of the bond, the insurer is sufficient and shall accepted or approved as surety on the bond, subject to Section 12090 of the Insurance Code.

§995.710. — (a) Except to the extent the statute providing for a bond precludes a deposit in lieu of bond or limits the form deposit, the principal may, instead of giving a bond, deposit with the officer any of the following:

(1) Lawful money of the United States. The money shall be maintained by the officer in an interest-bearin trust account.

(2) Bearer bonds or bearer notes of the United States or the State of California.

(3) Certificates of deposit payable to the officer, not exceeding the federally insured amount, issued by banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporatio or by savings and loan associations authorized to do business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(4) Savings accounts assigned to the officer, not exceeding the federally insured amount, together with evidence of the deposit in the savings accounts with banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(5) Investment certificates or share accounts assigned to the officer, not exceeding the federally insured amount, issued by savings and loan associations authorized to do business in this state and insured b the Federal Savings and Loan Insurance Corporation.

(6) Certificates for funds or share accounts assigned to the officer, not exceeding the guaranteed amount issued by a credit union, as defined in Section 14002 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

(b) The deposit shall be in an amount or have a face value, or in the case of bearer bonds or bearer notes hav a market value, equal to or in excess of the amount that would be required to be secured by the bond if the bond were given by an admitted surety insurer. Notwithstanding any other provision of this chapter, in th case of a deposit of bearer bonds or bearer notes other than in an action or proceeding, the officer may, in th officer's discretion, require that the amount of the deposit be determined not by the market value of the bonds or notes but by a formula based on the principal amount of the bonds or notes.

(c) The deposit shall be accompanied by an agreement executed by the principal authorizing the officer to collect, sell, or otherwise apply the deposit to enforce the liability of the principal on the deposit. The agreement shall include the address at which the principal may be served with notices, papers, and other

documents under this chapter.

(d) The officer may prescribe terms and conditions to implement this section.

§995.720. — (a) The market value of bearer bonds or bearer notes shall be agreed upon by stipulation of the principal and beneficiary or, if the bonds or notes are given in an action or proceeding and the principal and beneficiary are unable to agree, the market value shall be determined by court order in the manner prescribed in this section. A certified copy of the stipulation or court order shall be delivered to the officer at the time of the deposit of the bonds or notes.

(b) If the bonds or notes are given in an action or proceeding, the principal may file a written application with the court to determine the market value of the bonds or notes. The application shall be served upon the beneficiary and proof of service shall be filed with the application. The application shall contain all of the following:

(1) A specific description of the bonds or notes.

(2) A statement of the current market value of the bonds or notes as of the date of the filing of the application.

(3) A statement of the amount of the bonds or notes that the principal believes would be equal to the required amount of the deposit.

(c) The application pursuant to subdivision (b) shall be heard by the court not less than five days or more than 10 days after service of the application. If at the time of the hearing no objection is made to the current market value of the bonds or notes alleged in the application, the court shall fix the amount of the bonds or notes on the basis of the market value alleged in the application. If the beneficiary contends that the current market value of the bonds or notes is less than alleged in the application, the principal shall offer evidence in support of the application, and the beneficiary may offer evidence in opposition. At the conclusion of the hearing, the court shall make an order determining the market value of the bonds or notes and shall fix and determine the amount of the bonds or notes to be deposited by the principal.

§ 95.730. — A deposit given instead of a bond has the same force and effect, is treated the same, and is subject to the same conditions, liability, and statutory provisions, including provisions for increase and decrease of amount, as the bond.

§ 95.740. — If no proceedings are pending to enforce the liability of the principal on the deposit, the officer shall:

(a) Pay quarterly, on demand, any interest on the deposit, when earned in accordance with the terms of the account or certificate, to the principal.

(b) Deliver to the principal, on demand, any interest coupons attached to bearer bonds or bearer notes as the interest coupons become due and payable, or pay annually any interest payable on the bonds or notes.

§ 95.750. — (a) The principal shall pay the amount of the liability on the deposit within 30 days after the date on which the judgment of liability becomes final.

(b) If the deposit was given to stay enforcement of a judgment on appeal, the principal shall pay the amount of the liability on the deposit, including damages and costs awarded against the principal on appeal, within 30 days after the filing of the remitter from the appellate court in the court from which the appeal is taken.

§ 95.760. — (a) If the principal does not pay the amount of the liability on the deposit within the time prescribed in §995.750, the deposit shall be collected, sold, or otherwise applied to the liability upon order of the court that entered the judgment of liability, made upon five days' notice to the parties.

(b) Bearer bonds or bearer notes without a prevailing market price shall be sold at public auction. Notice of sale shall be served on the principal. Bearer bonds or bearer notes having a prevailing market price may be sold at private sale at a price not lower than the prevailing market price.

(c) The deposit shall be distributed in the following order:

(1) First, to pay the cost of collection, sale, or other application of the deposit.

(2) Second, to pay the judgment of liability of the principal on the deposit.

(3) Third, the remainder, if any, shall be returned to the principal.

§ 995.770. — A deposit given pursuant to this article shall be returned to the principal at the earliest of the following times:

(a) Upon substitution of a sufficient bond for the deposit. The bond shall be in full force and effect for all liabilities incurred, and for acts, omissions, or causes existing or which arose, during the period the deposit was in effect.

(b) The time provided by § 995.360 for return of a bond.

(c) The time provided by statute for return of the deposit.

§ 995.810. — The provisions of this article apply to a bond executed to, in favor of, in the name of, or payable to the State of California or the people of the state, including but not limited to an official bond.

§ 995.820. — Except as otherwise provided by statute, a bond given by an officer of the court for the faithful discharge of the officer's duties and obedience to the orders of the court shall be to the State of California.

§ 995.830. — If a statute or court order pursuant thereto providing for a bond does not specify the beneficiary of the bond the bond shall be to the State of California.

§ 995.850. — (a) The liability on a bond under this article may be enforced by or for the benefit of, and in the name of, and all persons for whose benefit the bond is given who are damaged by breach of the condition of the bond.

(b) A person described in subdivision (a) may, in addition to any other remedy the person has, enforce the liability on the bond in the person's own name, without assignment of the bond.

§ 996.010. — (a) If a bond is given in an action or proceeding, the court may determine that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient.

(b) The court determination shall be upon motion supported by affidavit or upon the court's own motion. The motion shall be deemed to be an objection to the bond. The motion shall be heard and notice of motion shall be given in the same manner as an objection to the bond.

(c) Upon the determination the court shall order that a sufficient new, additional, or supplemental bond be given within a reasonable time not less than five days. The court order is subject to any limitations in the statute providing for the bond.

(d) If a sufficient bond is not given within the time required by the court order, all rights obtained by giving the original bond immediately cease and the court shall upon ex parte motion so order.

§ 996.020. — (a) If a bond is given other than in an action or proceeding and it is shown by affidavit of a credible witness or it otherwise comes to the attention of the officer that the bond is or has from any cause become insufficient because the sureties are insufficient or because the amount of the bond is insufficient, the officer may serve an order on the principal to appear and show cause why the officer should not make a deter-

mination that the bond is insufficient. The order shall name a day not less than three or more than 10 days after service.

(b) If the principal fails to appear or show good cause on the day named why a determination that the bond is insufficient should not be made, the officer may determine that the bond is insufficient and order a sufficient new, additional, or supplemental bond to be given.

(c) If a sufficient bond is not given within 10 days after the order, the officer shall make an order vacating the rights obtained by giving the original bond, including declaring vacant any office and suspending or revoking any license or certificate for which the bond was given. Any office vacated, license suspended or revoked, or any other rights lost, for failure to give a new, additional, or supplemental bond, shall not be reinstated until a new, additional, or supplemental bond is given.

§ 96.030. — (a) The court if a bond is given or ordered in an action or proceeding, or the officer if a bond is given or ordered other than in an action or proceeding, may determine that the amount of the bond is excessive and order the amount reduced to an amount that in the discretion of the court or officer appears proper under the circumstances. The order is subject to any limitations in the statute providing for the bond.

(b) The determination shall be made upon motion or affidavit of the principal in the same manner as a motion or affidavit for a determination under this article that a bond is insufficient. The notice of motion or the order to show cause made pursuant to affidavit shall be served on the beneficiary. The determination shall be made in the same manner and pursuant to the same procedures as a determination under this article that the bond is insufficient.

(c) The principal may give a new bond for the reduced amount. The sureties may be the same sureties as on the original bond.

§ 96.210. — (a) The principal shall give a new, additional, or supplemental bond if the court or officer orders that a new, additional, or supplemental bond be given.

(b) The principal may give a new bond if a surety withdraws from or cancels the original bond or to obtain the release of sureties from liability on the original bond.

§ 96.220. — (a) A new, additional, or supplemental bond shall be in the same form and have the same obligation as the original bond and shall be in all other respects the same as the original bond, and shall be in such amount as is necessary for the purpose for which the new, additional, or supplemental bond is given.

(b) A supplemental bond shall, in addition to any other requirements, recite the names of the remaining original sureties, the name of the new surety, and the amount for which the new surety is liable. The supplemental bond shall be for the amount for which the original surety was liable on the original bond.

§ 96.230. — A new, additional, or supplemental bond is subject to all the provisions applicable to the original bond and to the provisions of this chapter, including but not limited to the provisions governing giving and objecting to a bond and liabilities and enforcement procedures.

§ 96.240. — If a new bond is given in place of the original bond:

(a) The original bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the new bond became effective.

(b) The sureties on the original bond are not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after or for any liabilities on the bond that arise after, the new bond becomes effective.

§ 96.250. — (a) An additional or supplemental bond does not discharge or affect the original bond. The original bond remains in full force and effect as if the additional or supplemental bond had not been given.

(b) After an additional or supplemental bond is given, the principal and sureties are liable upon either or bc bonds for injury caused by breach of any condition of the bonds. Subject to subdivision (c), the beneficiary may enforce the liability on either bond, or may enforce the liability separately on both bonds and recover separate judgments of liability on both.

(c) If the beneficiary recovers separate judgments of liability on both bonds for the same cause of action, th beneficiary may enforce both judgments. The beneficiary may collect, by execution or otherwise, the cc of both proceedings to enforce the liability and the amount actually awarded to the beneficiary on the sa cause of action in only one of the proceedings, and no double recovery shall be allowed.

(d) If the sureties on either bond have been compelled to pay any sum of money on account of the principal, th are entitled to recover from the sureties on the remaining bond a distributive part of the sum paid, in the proportion the amounts of the bonds bear one to the other and to the sums paid.

§ 996.310. — This article governs cancellation of or withdrawal of a surety from a bond given other than in an action or proceeding.

§ 996.320. — A surety may cancel or withdraw from a bond by giving a notice of cancellation or withdrawal to the officer whom the bond was given in the same manner the bond was given, notwithstanding § 995.030. The surety sh at the same time mail or deliver a copy of the notice of cancellation or withdrawal to the principal.

§ 996.330. — Cancellation or withdrawal of a surety is effective at the earliest of the following times:

(a) Thirty days after notice of cancellation or withdrawal is given.

(b) If a new surety is substituted for the original surety, the date the substitution becomes effective.

(c) If a new bond is given, the date the new bond becomes effective.

§ 996.340. — (a) If the principal does not give a new bond within 30 days after notice of cancellation or withdrawal is given, all rights obtained by giving the original bond immediately cease, any office for which the bond i given is vacant, any commission for which the bond is given is revoked, and any license or registration for which the bond is given is suspended.

(b) A person whose license or registration is suspended shall not operate or carry on business pursuant to th license or registration during the period of suspension. A license or registration that is suspended may bc revived only by the giving of a new bond during the license or registration period in which the cancellati or withdrawal occurred.

§ 996.350. — If the withdrawal of a surety does not reduce the amount of the bond or the number of sureties below the min mum required by the statute providing for the bond, no new bond is required or necessary to maintain the original bond in effect.

§ 996.360. — If a surety cancels or withdraws from a bond:

(a) The bond remains in full force and effect for all liabilities incurred before, and for acts, omissions, or causes existing or which arose before, the cancellation or withdrawal. Legal proceedings may be had therefor in all respects as though there had been no cancellation or withdrawal.

(b) The surety is not liable for any act, default, or misconduct of the principal or other breach of the condition of the bond that occurs after, or for any liabilities on the bond that arise after, the cancellation or withdrawal.

(c) The cancellation or withdrawal does not affect the bond as to the remaining sureties, or alter or change th liability in any respect.

# Appendix C

## EXAMPLES OF HOW FINANCIAL ASSURANCE SHOULD BE MADE PAYABLE

Example 1: "...made payable to_____County or the Department of Conservation...."

Example 2: "...made payable to the City of _____or the Department of Conservation..."

Example 3: "...made payable to_____County or the Department of Conservation or the Bureau of Land Management..."

# Appendix D

## IRREVOCABLE LETTER OF CREDIT

evocable Letter of Credit Number _____

piration Date: _____ As set out below

neficiary(ies): (1) (Lead Agency) _____

Address: _____

_____

_____

(2) California Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, California 95814-3529

This will serve as notice and agreement that (Name of Bank), a Financial Institution subject to regulation by the State (Regulating State), and duly authorized to do business in the State of California, has on deposit the necessary ount of $ _____ (United States Dollars) pledging and guaranteeing these funds to the (Lead Agency) and/or the partment of Conservation to meet the obligations of (Applicant) to establish and perform a reclamation plan and igation measures pursuant to Mining/Reclamation Plan Number _____ approved by (Lead Agency) on pproval Date).

The $_____ will be distributed to the Beneficiary(ies) upon the authorization and direction of a duly autho-ed representative of the (Lead Agency) or the Department of Conservation, which accompanied by the documents reafter described and subject to the following conditions:

(1) The (Lead Agency) may draw hereunder by means of its draft(s), accompanied by this original Letter of Credit l the following signed and dated statement, appropriately completed:

The amount of our accompanying draft $_____ represents a sum due to the (Lead Agency) pursuant Public Resources Code Section 2773.1(b). The (Lead Agency) has determined, following a public hearing, that pplicant) is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has ndoned its surface mining operation without commencing reclamation, and (Applicant) has been provided with notice l opportunity to cure (which cure period has expired), all in accordance with the provisions of Public Resources Code ction 2773.1(b). The individual signing below certifies that the foregoing statements are true and correct and that the natory is authorized to sign and deliver this statement on behalf of (Lead Agency), and that a copy of this statement s been forwarded by certified mail or courier service to the Department of Conservation.

(Lead Agency)

By: _____

Name: _____

Title: _____

(2) The Department of Conservation may draw hereunder by means of its draft(s), accompanied by the following signed and dated statement, appropriately completed (the original Letter of Credit need not accompany the draft(s)):

The amount of our accompanying draft $_____ is due to the Department of Conservation pursuant to Pub Resources Code Section 2773.1(b). The Department of Conservation, or the (Lead Agency) has determined, follow a public hearing, that (Applicant) is financially incapable of performing reclamation in accordance with its appro reclamation plan, or has abandoned its surface mining operation without commencing reclamation, and notice and opportun to cure have been given (with the cure period having expired), all in accordance with Public Resources Code Section 2773.1 and (d). The individual signing below certifies that the foregoing statements are true and correct and that the signatory authorized to sign and deliver this statement on behalf of the Department of Conservation, and that a copy of this statement l been forwarded by certified mail or courier service to the (Lead Agency).

California Department of Conservation

By: _____

Name: _____

Title: _____

This Letter of Credit shall be in full force and effect until receipt of a written statement by a duly authorized representati of the (Lead Agency) or the Department of Conservation that all of the obligations secured hereby have been perform or until disbursement of all funds pledged and guaranteed hereunder pursuant to the preceding paragraphs or until the Expi tion Date hereunder.

The Letter of Credit shall expire (Expiration Date) at the counters of (Financial Institution ar Address), or any extended date as hereinafter provided. It is a condition of this Letter of Credit that it shall be automa cally extended for additional periods, each of one year, unless at least one hundred twenty (120) days prior to the then releva expiration date (Financial Institution) has advised the (Lead Agency) and the Department of Conservati by registered or certified mail that the (Financial Institution) elects not to extend. In that event, the (Lea Agency) and/or the Department of Conservation may draw hereunder on or prior to the then relevant expiration date, up the full amount available hereunder, against the sight draft(s) on (Financial Institution), bearing the number of th Letter of Credit.

The amount of this Letter of Credit may be reduced in accordance to conditions set forth in the above referenced Minin Reclamation Plan Number _____, provided that any such reduction shall be made only with the written approval of duly authorized representative of the (Lead Agency) and/or the Department of Conservation.

This agreement shall be governed by and construed in accordance with the laws of the State of California. This credit sha be subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Cor merce Publication Number 500 notwithstanding Article 19 of said publication. If this Letter of Credit expires during a interruption of business as described in Article 19, (Financial Institution) is hereby specifically authorized and agr to effect payment if the letter is drawn within thirty (30) days after the resumption of business.

This shall constitute an irrevocable commitment of funds which shall not be subject to recall by (Financia Institution) before the Expiration Date hereunder.

(Financial Institution)

By: _____

[SEAL]

Name: _____

Title: _____

Mine ID #_____

(Page 1 of 5)
*Sole Proprietorship*

## Appendix E-1

**DEPARTMENT OF CONSERVATION**
**OFFICE OF MINE RECLAMATION**
**and the**

**(COUNTY/CITY) OF_____**

# SURETY BOND (SOLE PROPRIETORSHIP)

(Public Resources Code §2773.1)

Bond No._____

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED

_____ d/b/a
(Name of Individual)

_____
(Name of Company - Permittee and Principal, whose address for service is:)

_____,
(Street Address) (City) (State) (Zip)

a sole proprietorship, as Principal, and _____,
(Name of Surety Company, whose address for service is:)

_____,
(Street Address) (City) (State) (Zip)

organized and existing under the laws of the State of _____ and licensed to do business in the State of California, as Surety, are held and firmly bound unto the City/County of _____ and, in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, the _____
(Third Party Public Agency)

in the penal sum of _____DOLLARS ($_____), for the payment of which sum we hereby jointly and severally bind ourselves, our successors, and assigns. In the event of forfeiture by the Principal, the Obligees agree that, in the aggregate, they shall not demand in excess of the penal sum of this bond.

THE CONDITION OF THE ABOVE OBLIGATION is such that:

Whereas, the above-named Principal has submitted _____,
(Permit or Reclamation Plan Application)
No._____, including a mining and reclamation plan, to reclaim a surface mining operation, as defined pursuant to the Surface Mining and Reclamation Act, Public Resources Code, Division 2, Chapter 9, §2710 et seq. (the Act), and its attendant regulations (California Code of Regulations, Title 14, §3500 et seq.); and

Whereas, a demand has been made upon Principal for security under Public Resources Code §2773.1, to insure compliance with the Act; and this bond is executed and tendered in accordance therewith;

**Appendix**
(Page 2
*Sole Proprieto*

CA Mine ID #_____
Bond No._____

Whereas, the Principal has chosen to file this performance bond as a guarantee that the reclamation o land disturbed during this surface mining operation will be completed as required by the Act and regulations, an as specified in the Permit and Reclamation Plan as approved by the City/County of _____

Whereas, the Surety and their successors and assigns agree to guarantee the obligation and to indemi the City/County of _____, the Department of Conservation, Office o

Mine Reclamation and the _____
(Third Party Public Agency)
from the failure of the Principal to complete the reclamation of the land disturbed during the surface mining oper tion in conformity with the Act and regulations and as specified in the Permit and Reclamation Plan as approved

the City/County of _____, subject to the penal sum of this bond;

Whereas, the surety, as part of the obligation secured by this bond, and in addition to the penal sum specified in this bond, agrees there shall be included costs and reasonable expenses and fees, including reasor able attorney fees, incurred by the City/County, and in the alternative, the Department of Conservation, Office of

Mine Reclamation, and, in the alternative, _____ in successfull
(Third Party Public Agency)
enforcing such obligation against the surety, all to be taxed as costs and included in any judgment rendered;

Whereas, obligations guaranteed by this performance bond shall be in effect for the following described lands which are subject to the approved mining and reclamation plan or increment upon which initial or succeed operations by the principal will be conducted:

(Insert legal description) _____

_____

_____

_____

Now, if the Principal faithfully completes all reclamation requirements set forth in the Act, the regulations and all conditions of the permit related to reclamation, including the mining and reclamation plan, then this obliga tion shall be void; otherwise, it shall remain in full force and effect:

(a) beginning on the date of the approval and issuance of Permit No. _____ (or Reclamation Plan No. _____), or prior to commencement of surface disturbance, and extending until all reclamation and restoration work pursuant to the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, has been completed to the satisfaction to the City/County of _____, and in the alternative, the Department of Conservation, Office of Mine Reclamation; and, in the alternative, the _____; and
(Third Party Public Agency)

(b) until the bond is released or replaced, or until the permit has been sold, reassigned or otherwise transferred in accordance with the Act and its attendant regulations.

**Appendix E-1**
(Page 3 of 5)
*Sole Proprietorship*

Mine ID #_____
nd No._____

The failure of the Principal to fulfill mined land reclamation obligations specified by the Act, the regulations, l all conditions of the permit related to reclamation, including the mining and reclamation plan, shall result in a eiture of this performance bond according to the procedures described in the Act.

The amount of the Surety's liability may be adjusted by the City/County of_____,
l in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, the
suant_____ to the Act for lands covered
(Third Party Public Agency)
his bond which have been disturbed by the Principal, or for which reclamation has been completed and ap-
ved by the City/County of _____, and in the alternative,
Department of Conservation, Office of Mine Reclamation. If the penal sum of this bond requires adjustment, it ll be by use of an Increase/Decrease Rider.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the
ns of the _____, No. _____, or to the
(Permit or Reclamation Plan Application)
k to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation his bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to
terms of the _____,
(Permit or Reclamation Plan Application)
_____ or to the work or to the specifications. Surety further stipulates and agrees that the provisions of ction 2845 of the Civil Code are not a condition precedent to surety's obligations hereunder and are hereby ved by surety.

The Surety will give prompt notice to the Principal, the City/County of _____,
Department of Conservation, Office of Mine Reclamation and the _____
(Third Party Public Agency)
ny notice received or action filed alleging the insolvency or bankruptcy of the Surety, or alleging any violations egulatory requirements which could result in suspension or revocation of the Surety's license to do business.

In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, notice shall given immediately to the Principal, the City/County of _____,
Department of Conservation, Office of Mine Reclamation and the_____
_____.
(Third Party Public Agency)

Upon the incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its nse, the Principal shall be deemed to be without bond coverage in violation of the Act, and subject to enforce- nt actions described in the Act.

**Appendix I**
(Page 4 o)
*Sole Proprietors*

CA Mine ID #_____
Bond No._____

IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of the dates set forth below.

Date_____ _____
(Corporation - Permittee [Principal])

By: _____
(Signature of Sole Proprietor)

(Corporate Seal)

_____
Typed or Printed Name

Title: _____

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing bond under an unrevoked Power of Attorney.

_____
(Surety Company)

By: _____
(Signature of Attorney-in-Fact for Surety)

(Seal)

_____
Typed or Printed Name

Title: _____

Executed in _____ on _____ unde
(City and State) (Date)
the laws of the State of California.

(Note: Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.)

**Appendix E-1**
(Page 5 of 5)
*Sole Proprietorship*

:A Mine ID #_____
ond No._____

## ACKNOWLEDGMENT OF COMPANY - PERMITTEE

tate of _____
SS.
ounty of _____

n this _____of _____, in the year _____ , before me, _____(name
nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

ITNESS my hand and official seal.

_____ L.S.
lotary's Signature
ly Commission Expires:_____

## ACKNOWLEDGMENT OF SURETY

tate of _____
SS.
ounty of _____

n this _____of _____, in the year _____ , before me, _____(name
nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

ITNESS my hand and official seal.

_____ L.S.
lotary's Signature
ly Commission Expires:_____

OTE: Please identify the agent acting on behalf of the surety, if applicable.

GENT _____ PHONE_____

DDRESS _____

_____

A Mine ID #_____

(Page 1 of 6)
*Partnership*

## Appendix E-2

**DEPARTMENT OF CONSERVATION**
**OFFICE OF MINE RECLAMATION**
**and the**

**(COUNTY/CITY) OF _____**

# SURETY BOND (PARTNERSHIP)

(Public Resources Code §2773.1)

Bond No._____

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED

_____

'artnership - Permittee and Principal, whose address for service is:)

_____,
treet Address) (City) (State) (Zip)

partnership, as Principal, and _____,
(Name of Surety Company, whose address for service is:)

_____,
treet Address) (City) (State) (Zip)

ganized and existing under the laws of the State of _____ and licensed to do usiness in the State of California, as Surety, are held and firmly bound unto the City/County of _____ nd, in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, the

_____ in the penal sum of _____
(Third Party Public Agency)

_____ DOLLARS ($_____) for the payment of which sum we ereby jointly and severally bind ourselves, our successors, and assigns. In the event of forfeiture by the Principal, e Obligees agree that, in the aggregate, they shall not demand in excess of the penal sum of this bond.

THE CONDITION OF THE ABOVE OBLIGATION is such that:

Whereas, the above-named Principal has submitted _____,
(Permit or Reclamation Plan Application)
o._____, including a mining and reclamation plan, to reclaim a surface mining operation, as defined ursuant to the Surface Mining and Reclamation Act, Public Resources Code, Division 2, Chapter 9, §2710 et seq. he Act), and its attendant regulations (California Code of Regulations, Title 14, §3500 et seq.); and

Whereas, a demand has been made upon Principal for security under Public Resources Code §2773.1, to isure compliance with the Act; and this bond is executed and tendered in accordance therewith;

**Appendix E**

(Page 2 of
*Partnersl*

CA Mine ID #_____
Bond No._____

Whereas, the Principal has chosen to file this performance bond as a guarantee that the reclamation of t land disturbed during this surface mining operation will be completed as required by the Act and regulations, and as specified in the Permit and Reclamation Plan as approved by the City/County of_____

_____

Whereas, the Surety and their successors and assigns agree to guarantee the obligation and to indemnif the City/County of_____th Department of Conservation, Office of Mine Reclamation and the _____
(Third Party Public Agency)
from the failure of the Principal to complete the reclamation of the land disturbed during the surface mining opera tion in conformity with the Act and regulations and as specified in the Permit and Reclamation Plan as approved t the City/County of _____, subject to the penal sum of this bon

Whereas, the surety, as part of the obligation secured by this bond, and in addition to the penal sum specified in this bond, agrees there shall be included costs and reasonable expenses and fees, including reasonable attorney fees, incurred by the County, and in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, _____ in successfully
(Third Party Public Agency)
enforcing such obligation against the surety, all to be taxed as costs and included in any judgment rendered;

Whereas, obligations guaranteed by this performance bond shall be in effect for the following described lands which are subject to the approved mining and reclamation plan or increment upon which initial or succeedin operations by the principal will be conducted:

(Insert legal description) _____

_____

_____

_____

Now, if the Principal faithfully completes all reclamation requirements set forth in the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, then this obligation shall be void; otherwise, it shall remain in full force and effect:

(a) beginning on the date of the approval and issuance of Permit No. _____ (or Reclamation Plan No. _____), or prior to commencement of surface disturbance, and extending until al reclamation and restoration work pursuant to the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, has been completed to the satisfaction to the City/County of _____, and in the alternative, the Department of Conservation, Office of Mine Reclamation; and, in the alterna tive, the _____; and,
(Third Party Public Agency)

**Appendix E-2**
(Page 3 of 6)
*Partnership*

A Mine ID #_____
ond No._____

(b) until the bond is released or replaced, or until the permit has been sold, reassigned or otherwise transferred in accordance with the Act and its attendant regulations.

The failure of the Principal to fulfill mined land reclamation obligations specified by the Act, the regulations, nd all conditions of the permit related to reclamation, including the mining and reclamation plan, shall result in a rfeiture of this performance bond according to the procedures described in the Act.

The amount of the Surety's liability may be adjusted by the City/County of_____ and, the alternative, the Department of Conservation, Office of Mine Reclamation and, in the alternative, the _____pursuant to the Act for lands covered
(Third Party Public Agency)
y this bond which have been disturbed by the Principal, or for which reclamation has been completed and pproved by the City/County of _____ and, the alternative, the Department of Conservation, Office of Mine Reclamation. If the penal sum of this bond quires adjustment, it shall be by use of an Increase/Decrease Rider.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the rms of the _____, No. _____ or to the
(Permit or Reclamation Plan Application)
ork to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation n this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the rms of the _____
(Permit or Reclamation Plan Application)
o. _____ or to the work or to the specifications. Surety further stipulates and agrees that the provisions of ection 2845 of the Civil Code are not a condition precedent to surety's obligations hereunder and are hereby aived by surety.

The Surety will give prompt notice to the Principal, the City/County of _____,

e Department of Conservation, Office of Mine Reclamation and the _____ of
(Third Party Public Agency)
ny notice received or action filed alleging the insolvency or bankruptcy of the Surety, or alleging any violations or gulatory requirements which could result in suspension or revocation of the Surety's license to do business.

In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, notice shall

e given immediately to the Principal, the City/County of _____,

e Department of Conservation, Office of Mine Reclamation and the _____.
(Third Party Public Agency)

Upon the incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its ense, the Principal shall be deemed to be without bond coverage in violation of the Act, and subject to enforce- ent actions described in the Act.

**Appendix I2**
(Page 4 o3)
*Partnersp*

CA Mine ID #_____
Bond No._____

IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of the dates set forth below.

Date_____ _____
(Partnership - Permittee [Principal])

By: _____
(Signature of Partner)

(Corporate Seal)

_____
Typed or Printed Name

Title: _____
(Signature of Partner)

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing bond under an unrevoked Power of Attorney.

_____
(Surety Company)

By: _____
(Signature of Attorney-in-Fact for Surety)

(Seal)

_____
Typed or Printed Name

Title: _____

Executed in _____ on _____ under
(City and State) (Date)
the laws of the State of California.

(Note: Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.)

**Appendix E-2**
(Page 5 of 6)
*Partnership*

:A Mine ID #_____
ond No._____

## ACKNOWLEDGMENT OF PARTNERSHIP - PERMITTEE

tate of _____

SS.

ounty of _____

n this _____of _____, in the year _____ , before me, _____(name

nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

/ITNESS my hand and official seal.

_____ L.S.
otary's Signature
ly Commission Expires:_____

## ACKNOWLEDGMENT OF PARTNERSHIP - PERMITTEE

tate of _____

SS.

ounty of _____

n this _____of _____, in the year _____ , before me, _____(name

nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

/ITNESS my hand and official seal.

_____ L.S.
otary's Signature
ly Commission Expires:_____

**Appendix I2**

CA Mine ID #_____.
Bond No._____

(Page 6 c)
*Partners*

## ACKNOWLEDGMENT OF SURETY

State of _____

SS.

County of _____

On this _____of _____, in the year _____, before me,_____

(name and quality of officer), personally appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/he
their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____ L.S.
Notary's Signature
My Commission Expires:_____

NOTE: Please identify the agent acting on behalf of the surety, if applicable.

AGENT _____ PHONE_____

ADDRESS_____

_____

(A Mine ID #_____

(Page 1 of 5)
*Corporation*

## Appendix E-3

**DEPARTMENT OF CONSERVATION**
**OFFICE OF MINE RECLAMATION**
**and the**

**(COUNTY/CITY) OF_____**

# SURETY BOND (CORPORATION)

(Public Resources Code §2773.1)

Bond No._____

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED

_____,
(ame of Corporation - Permittee and Principal, whose address for service is:)

_____,
(treet Address) (City) (State) (Zip)

corporation organized and existing under the laws of the State of _____, as Principal, and

_____,
(Name of Surety Company, whose address for service is:)

_____,
(treet Address) (City) (State) (Zip)

ganized and existing under the laws of the State of _____ and licensed t do business in the State of California, as Surety, are held and firmly bound unto the City/County of _____ and, in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, the _____
(Third Party Public Agency)
in the penal sum of _____ DOLLARS ($_____)
for the payment of which sum we hereby jointly and severally bind ourselves, our successors, and assigns. In the event of forfeiture by the Principal, the Obligees agree that, in the aggregate, they shall not demand in excess of the penal sum of this bond.

THE CONDITION OF THE ABOVE OBLIGATION is such that:

Whereas, the above-named Principal has submitted _____,
(Permit or Reclamation Plan Application)
No._____, including a mining and reclamation plan, to reclaim a surface mining operation, as defined pursuant to the Surface Mining and Reclamation Act, Public Resources Code, Division 2, Chapter 9, § 2710 et seq. (the Act), and its attendant regulations (California Code of Regulations, Title 14, § 3500 et seq.); and

Whereas, a demand has been made upon Principal for security under Public Resources Code § 2773.1, to insure compliance with the Act; and this bond is executed and tendered in accordance therewith;

**Appendix I**
(Page 2 o
*Corpora*

CA Mine ID #_____
Bond No._____

Whereas, the Principal has chosen to file this performance bond as a guarantee that the reclamation of land disturbed during this surface mining operation will be completed as required by the Act and regulations, and as specified in the Permit and Reclamation Plan as approved by the City/County of _____

Whereas, the Surety and their successors and assigns agree to guarantee the obligation and to indemn the City/County of _____, the Department of Conservation, Office of Mine Reclam tion and the _____
(Third Party Public Agency)
from the failure of the Principal to complete the reclamation of the land disturbed during the surface mining oper tion in conformity with the Act and regulations and as specified in the Permit and Reclamation Plan as approved the City/County of _____, subject to the penal sum of this bond;

Whereas, the surety, as part of the obligation secured by this bond, and in addition to the penal sum specified in this bond, agrees there shall be included costs and reasonable expenses and fees, including reason able attorney fees, incurred by the County, and in the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative, the _____ in successfully
(Third Party Public Agency)
enforcing such obligation against the surety, all to be taxed as costs and included in any judgment rendered;

Whereas, obligations guaranteed by this performance bond shall be in effect for the following described lands which are subject to the approved mining and reclamation plan or increment upon which initial or succeedi operations by the principal will be conducted:

(Insert legal description) _____

_____

_____

_____

Now, if the Principal faithfully completes all reclamation requirements set forth in the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, then this obligation shall be void; otherwise, it shall remain in full force and effect:

(a) beginning on the date of the approval and issuance of Permit No. _____ (or Reclamation Plan No. _____), or prior to commencement of surface disturbance, and extending until a reclamation and restoration work pursuant to the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, has been completed to the satisfaction of the City/County of _____, and, in the alternative, the Department of Conservation, Office of Mine Reclamation; and, in the alternative, the _____; and
(Third Party Public Agency)

(b) until the bond is released or replaced, or until the permit has been sold, reassigned or otherwise transferred in accordance with the Act and its attendant regulations.

## Appendix E-3

CA Mine ID #_____ (Page 3 of 5)
Bond No._____ *Corporation*

The failure of the Principal to fulfill mined land reclamation obligations specified by the Act, the regulations, and all conditions of the permit related to reclamation, including the mining and reclamation plan, shall result in a forfeiture of this performance bond according to the procedures described in the Act.

The amount of the Surety's liability may be adjusted by the City/County of_____ and, in the alternative, the Department of Conservation, Office of Mine Reclamation and, in the alternative, the _____
(Third Party Public Agency)
pursuant to the Act for lands covered by this bond which have been disturbed by the Principal, or for which reclamation has been completed and approved by the City/County of _____and in the alternative, the Department of Conservation, Office of Mine Reclamation. If the penal sum of this bond requires adjustment, it shall be by use of an Increase/Decrease Rider.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the _____, No. _____
(Permit or Reclamation Plan Application)
to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the _____,
(Permit or Reclamation Plan Application)
No. _____ or to the work or to the specifications. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to surety's obligations hereunder and are hereby waived by surety.

The Surety will give prompt notice to the Principal, the City/County of _____, the Department of Conservation, Office of Mine Reclamation and the_____
(Third Party Public Agency)
of any notice received or action filed alleging the insolvency or bankruptcy of the Surety, or alleging any violations of regulatory requirements which could result in suspension or revocation of the Surety's license to do business.

In the event the Surety becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the Principal, the City/County of _____, the Department of Conservation, Office of Mine Reclamation and the _____.
(Third Party Public Agency)

Upon the incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the Principal shall be deemed to be without bond coverage in violation of the Act, and subject to enforcement actions described in the Act.

**Appendix I3**
(Page 4 o5)
*Corporate*

CA Mine ID #_____
Bond No._____

IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of the dates set forth below.

Date_____ _____
(Corporation - Permittee [Principal])

By: _____
(Signature of Corporate Officer)

(Corporate Seal)

_____
Typed or Printed Name

Title: _____

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing bond under an unrevoked Power of Attorney.

_____
(Surety Company)

By: _____
(Signature of Attorney-in-Fact for Surety)

(Seal)

_____
Typed or Printed Name

Title: _____

Executed in _____ on _____ under
(City and State) (Date)
the laws of the State of California.

(Note: Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.)

**Appendix E-3**
(Page 5 of 5)
*Corporation*

C\ Mine ID #_____
End No._____

## ACKNOWLEDGMENT OF CORPORATION - PERMITTEE

Sate of _____
SS.
County of _____

On this _____of _____, in the year _____ , before me,
(name and quality of officer), personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____ L.S.
Notary's Signature
My Commission Expires:_____

## ACKNOWLEDGMENT OF SURETY

State of _____
SS.
County of _____

On this _____of _____, in the year _____ , before me,
(name and quality of officer), personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____ L.S.
Notary's Signature
My Commission Expires:_____

NOTE: Please identify the agent acting on behalf of the surety, if applicable.

AGENT _____ PHONE_____

ADDRESS_____

_____

Mine ID #_____ Page 1 of 3

## Appendix E-4

**DEPARTMENT OF CONSERVATION**
**OFFICE OF MINE RECLAMATION**

**and the**

**COUNTY/CITY OF_____**

# RECLAMATION PERFORMANCE BOND GENERAL PURPOSE RIDER

To be attached to and form a part of Surety Company Bond No. _____
tten by _____
a SURETY, on behalf of _____
a PRINCIPAL, in the penal sum of _____
LLARS ($_____), in favor of the County/City of _____and,
he alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative,
_____
(Third Party Public Agency)
d executed on _____.

Whereas, the County/City of _____issued approval of a surface mining
d reclamation project, Permit No. _____, dated on_____, and
ewals and revisions numbered and dated _____ pursuant to the
lication of the Principal,

CR

Whereas, either the County/City of _____ or, in the alternative,
State Mining and Geology Board approved reclamation plan No. _____, dated on
_____, and renewals and revisions numbered and dated
_____ pursuant to the application of the Principal;

ad

Whereas, said bond and rider shall cover any and all land affected or to be affected by the mining operation under the above mentioned permit and reclamation plan or the reclamation plan, and revisions and renewals since the date of the issuance of the permit and reclamation plan or the reclamation plan,

Now, therefore, the purpose of this rider is: _____
_____
_____

It is further understood and agreed that all other terms and conditions of this bond shall remain unchanged.

**Appendix 1**

CA Mine ID #_____
Permit No. _____
Bond No. _____



IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of th dates set forth below.

## PRINCIPAL

Date:_____ _____
(Company - Permittee [Principal])

By: _____
(Corporate Officer/Partners/Sole Proprietor)

(Seal)

_____
Typed or Printed Name

Title: _____

## SURETY

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing ri under an unrevoked Power of Attorney.

By: _____
(Corporate Officer/Partners/Sole Proprietor)

(Seal)

_____
Typed or Printed Name

Title: _____

Executed in _____ on _____ under
(City and State) (Date)

the laws of the State of California.

(Note: Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.)

**Appendix E-4**



*Reclamation Performance Bond General Purpose Rider*

CA Mine ID #_____
Permit No. _____
Bond No. _____

## ACKNOWLEDGMENT OF PERMITTEE

State of _____
SS.
County of _____

On this _____of _____, in the year _____ , before me, _____(name and quality of officer), personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____ L.S.
Notary's Signature
My Commission Expires:_____

## ACKNOWLEDGMENT OF SURETY

State of _____
SS.
County of _____

On this _____of _____, in the year _____ , before me, _____(name and quality of officer), personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____ L.S.
Notary's Signature
My Commission Expires:_____

NOTE: Please identify the agent acting on behalf of the surety, if applicable.

AGENT _____ PHONE_____

ADDRESS _____

A Mine ID #_____ Page 1 of 3

## Appendix E-5

**DEPARTMENT OF CONSERVATION**
**OFFICE OF MINE RECLAMATION**

**and the**

**COUNTY/CITY OF _____**

# RECLAMATION PERFORMANCE BOND INCREASE/DECREASE RIDER

To be attached to and form a part of Surety Company Bond No. _____,
ritten by _____ as
URETY, on behalf of _____
s PRINCIPAL, in the penal sum of _____
OLLARS ($_____), in favor of the County/City of_____ and,
the alternative, the Department of Conservation, Office of Mine Reclamation, and, in the alternative,
e _____
(Third Party Public Agency)
nd executed on _____.

Whereas, the County/City of _____ issued approval of a surface mining and clamation project, Permit No. _____, dated on _____, and newals and revisions numbered and dated _____ pursuant to the plication of the Principal,

**R**

Whereas, either the County/City of _____ or, in the alternative, the State ining and Geology Board approved reclamation plan No. _____, dated on _____, and renewals and revisions numbered and dated _____ ursuant to the application of the Principal;

**nd**

Whereas, said bond and rider shall cover any and all land affected or to be affected by the mining operation under the above mentioned permit and reclamation plan or the reclamation plan, and revisions and renewals nce the date of the issuance of the permit and reclamation plan or the reclamation plan,

Now, therefore, the amount of this bond is increased/decreased by _____ _____Dollars _____), to a total penal sum of _____ _____Dollars ($_____), to cover the additional/reduced cost of reclaiming all affected lands for the payment of which sum we hereby jointly and severally nd ourselves, our successors and assigns. It is further understood and agreed that all other terms and conditions this bond shall remain unchanged.

CA Mine ID #_____
Permit No._____
Bond No. _____

IN WITNESS THEREOF, the Principal and Surety have hereunto set their signatures and seals as of th dates set forth below.

## PRINCIPAL

Date:_____ _____
(Company - Permittee [Principal])

By: _____
(Corporate Officer/Partners/Sole Proprietor)

(Seal)

_____
Typed or Printed Name

Title: _____

## SURETY

I declare, under penalty of perjury, under the laws of the State of California, that I have executed the foregoing rider under an unrevoked Power of Attorney.

By: _____
(Corporate Officer/Partners/Sole Proprietor)

(Seal)

_____
Typed or Printed Name

Title: _____

Executed in _____ on _____ under
(City and State) (Date)

the laws of the State of California.

(Note: Where one signs by virtue of a Power of Attorney for a Surety Company, such fully executed Power of Attorney must be filed with this bond.)

## Appendix E-5

:A Mine ID #_____
ermit No._____
ond No. _____


*Reclamation Performance Bond Increase/Decrease Rider*

### ACKNOWLEDGMENT OF PERMITTEE

tate of _____

SS.

ounty of _____

n this _____of _____, in the year _____ , before me, _____(name

nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

/ITNESS my hand and official seal.

_____ L.S.
otary's Signature
y Commission Expires:_____

### ACKNOWLEDGMENT OF SURETY

tate of _____

SS.

ounty of _____

n this _____of _____, in the year _____ , before me, _____(name

nd quality of officer), personally appeared _____, personally
nown to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
ubscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
uthorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon
ehalf of which the person(s) acted, executed the instrument.

/ITNESS my hand and official seal.

_____ L.S.
otary's Signature
y Commission Expires:_____

OTE: Please identify the agent acting on behalf of the surety, if applicable.

GENT _____ PHONE_____

DDRESS _____

_____

# Appendix F

## CERTIFICATE OF DEPOSIT

WRITTEN INSTRUCTIONS FOR THE ESTABLISHMENT AND ENCASHMENT OF A CERTIFICATE OF DEPOSIT O BE ISSUED FOR _____ Applicant _____.

The certificate of deposit (CD) is to be established and encashed through the following procedures:

Applicant's bank or financial institution will issue a CD in the amount of $ _____, which will be automatically enewed each year through the year _____ unless it is determined pursuant to the terms of the California Surface Mining nd Reclamation Act (SMARA), Public Resources Code Section 2710 et seq., that the financial assurance should be adjusted. hould this occur, Applicant will be required to make the necessary adjustment and submit a new CD. The certificate self will bear a notation evidencing automatic renewal and will name both the Lead Agency and, in the alternative, the epartment of Conservation as payees.

The bank or financial institution shall be authorized to encash the CD at any time at the request of the Lead Agency nd/or the Department of Conservation, and to deliver such funds to the Lead Agency, or the Department of onservation upon written certification from the Lead Agency and/or the Department of Conservation that Applicant has failed to perform any applicable requirement of Reclamation Plan Number _____.

Encashment of the CD by the Lead Agency or the Department of Conservation is predicated upon the Lead Agency or the Department of Conservation following the noticing and hearing procedures set forth in SMARA ection 2773.1, and upon its written certification that such procedures have been followed.

The bank or financial institution shall be authorized to encash the CD at the instance and request of Applicant, and deliver such funds to Applicant, only upon receipt of a written release from the Lead Agency and the epartment of Conservation relinquishing their claim to the CD.

The bank or financial institution shall provide a letter (signed by a duly authorized officer of the financial institution) to the ead Agency and the Department of Conservation verifying the CD and the procedures by which the CD may be ncashed.

RECLAMATION PLAN FOR
MINING OPERATION

# RECLAMATION PLAN FOR MINING OPERATION

RECLAMATION PLAN FOR

_____ (name of mine)

MINING OPERATION

*Note: This prototype, developed by the State Mining and Geology Board (Board), is intended to assist smaller-scale mine operators in environmentally nonsensitive areas to conform to the requirements of the Surface Mining and Reclamation Act (SMARA) and related Board regulations. It serves as an example of an acceptable reclamation plan format. The prototype is not intended to place any additional requirements on mining operators, nor to limit lead agency control in implementing SMARA's reclamation requirements.*

PLEASE PRINT OR TYPE, ATTACH ADDITIONAL SHEETS IF NECESSARY

## CALIFORNIA MINE ID # [if one has been assigned]:

| | | |
|---|---|---|
| | - | - |

## GENERAL OWNERSHIP/OPERATION INFORMATION:

| |
|---|
| MINE NAME: |
| LOCATION OF MINE (include address):<br><br>ATTACH A MAP THAT IDENTIFIES HOW TO ACCESS THE MINE SITE FROM THE NEAREST HIGHWAY.<br><br>☐ **CHECK BOX IF LOCATION MAP IS ATTACHED** |
| MINE OPERATOR(S): |
| TELEPHONE NUMBER(S): |
| MAILING ADDRESS: |
| MINE OPERATOR'S DESIGNATED AGENT (if applicable) |
| TELEPHONE NUMBER: |
| MAILING ADDRESS: |

## GENERAL MINING OPERATION INFORMATION

MINED MINERAL COMMODITY(IES):

ESTIMATED ANNUAL PRODUCTION:

ESTIMATED TOTAL PRODUCTION:

TOTAL NUMBER OF ACRES TO BE DISTURBED BY THE SURFACE MINING OPERATION:

TOTAL NUMBER OF ACRES TO BE RECLAIMED:

MAXIMUM ANTICIPATED DEPTH OF MINING: _____ FEET _____ ELEVATION (mean sea level)

START-UP DATE [indicate whether actual or proposed]

SITE MAP: ATTACH A TOPOGRAPHIC MAP OF LANDS THAT WILL BE AFFECTED BY MINING OPERATIONS. THE MAP SCALE SHOULD BE 1"=100' TO 1"=500' SO THAT THE FOLLOWING MAY BE IDENTIFIED EASILY:

EXISTING SITE CONDITIONS:
MINING OPERATION FEATURES:
FINAL SITE CONFIGURATION:

☐ **CHECK BOX IF SITE MAP IS ATTACHED**

(1) DESCRIBE THE ENVIRONMENTAL SETTING OF THE MINE SITE, INCLUDING THE FOLLOWING: PROVIDE A GENERAL DESCRIPTION OF VEGETATION AND A LIST OF PLANTS CURRENTLY ON SITE THAT MAY BE SUITABLE FOR RECLAMATION.

(2) ADDRESS THE PRESENCE/ABSENCE OF SENSITIVE SPECIES, SENSITIVE HABITATS [WETLANDS, VERNAL POOLS, ETC.]. ADDRESS SPECIES, HABITATS THAT ARE CONSIDERED SENSITIVE WITHIN THE LEAD AGENCY'S JURISDICTION [e.g., Oak Woodland, Bishop Pine Forest].

**GENERAL MINING OPERATION INFORMATION continued**

(1) DESCRIBE THE GEOLOGY OF THE AREA SURROUNDING THE MINE SITE:

(2) DESCRIBE THE GEOLOGY OF THE AREA TO BE MINED:

DESCRIBE THE TYPE OF MINING TO BE EMPLOYED [e.g., quarry/truck and shovel operation]:

## (ENERAL LEAD AGENCY INFORMATION

LEAD AGENCY:

STAFF CONTACT:

TELEPHONE NUMBER:

MAILING ADDRESS:

USE PERMIT NUMBER [IF APPLICABLE]:

DATE PERMIT WAS APPROVED AND/OR AMENDED:

PERMIT EXPIRATION DATE:

**GENERAL LEAD AGENCY INFORMATION continued**

SMARA SECTIONS 2770 AND 2773.1 REQUIRE MINE OPERATORS TO OBTAIN A LEAD AGENCY APPROVED FINANCIAL ASSURANCE TO ENSURE RECLAMATION OCCURS PURSUANT TO THE RECLAMATION PLAN. ATTACH A COPY OF THE PROPOSED/APPROVED FINANCIAL ASSURANCE.

☐ **CHECK HERE IF YOU ATTACHED A COPY OF THE PROPOSED FINANCIAL ASSURANCE**

☐ **CHECK HERE IF YOU ATTACHED A COPY OF THE APPROVED FINANCIAL ASSURANCE**

NOTE: A RECLAMATION COST ESTIMATE WORKSHEET IS ATTACHED FOR YOUR ASSISTANCE IN DETERMINING THE APPROPRIATE FINANCIAL ASSURANCE AMOUNT (APPENDIX A)

## DETAILED DESCRIPTION OF RECLAMATION ACTIVITIES [attach additional sheets, if needed]

**[Pursuant to Public Resources Code Section 2772]**

DESCRIBE THE PROPOSED USE OF THE SITE ONCE MINING CEASES AND RECLAMATION IS COMPLETED:

ATTACH EVIDENCE THAT ALL OWNERS OF A POSSESSORY INTEREST IN THE LAND TO BE MINED HAVE BEEN NOTIFIED OF THE PROPOSED END USE [e.g., copies of notices sent to land owner and mineral rights owner].

☐ **CHECK BOX IF EVIDENCE IS ATTACHED**

PROVIDE A TIME SCHEDULE FOR THE RECLAMATION OF EACH AREA DISTURBED BY MINING. IF APPLICABLE, INDICATE RECLAMATION PHASES ON YOUR SITE MAP.

DISCUSS HOW THE IMPLEMENTATION OF THIS RECLAMATION PLAN WILL AFFECT FUTURE MINING IN THE AREA [e.g., reclamation will not preclude future mining at this site since reclamation calls for open space].

DESCRIBE HOW THE PROPOSED RECLAMATION OF THE MINE SITE WILL AFFECT PUBLIC HEALTH AND SAFETY, GIVING CONSIDERATION TO THE DEGREE AND TYPE OF EXISTING AND PROBABLE FUTURE PUBLIC EXPOSURE TO THE SITE.

**DETAILED DESCRIPTION OF RECLAMATION ACTIVITIES continued**

BRIEFLY DISCUSS HOW CONTAMINANTS WILL BE CONTROLLED AND MINE WASTE WILL BE DISPOSED [e.g., fuel storage].
NOTE: IF CYANIDE IS USED FOR ON-SITE PROCESSING, PRC SECTION 21151.7 REQUIRES THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

ATTACH A TOPOGRAPHIC MAP SHOWING THE CONFIGURATION OF THE SITE ONCE RECLAIMED.

☐ **CHECK BOX IF MAP IS ATTACHED**

LIST AND ATTACH COPIES OF ANY ADDITIONAL INFORMATION REQUIRED BY THE LEAD AGENCY AS INDICATED IN THE SMARA ORDINANCE [e.g., reclamation of the mine site must comply with the provisioins of the County's Oak Ordinance.]

☐ **CHECK BOX IF ALL ABOVE LISTED DOCUMENTS ARE ATTACHED**

## ECLAMATION STANDARDS

PURSUANT TO SMARA SECTION 2773, *MY RECLAMATION ACTIVITIES WILL COMPLY WITH THE FOLLOWING STANDARDS PROVIDED IN THE CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 14, ARTICLE 9, SECTIONS 3700-3710.*

CHECK APPLICABLE BOX

☐ TOPSOIL SALVAGE, MAINTENANCE, AND REDISTRIBUTION - IF THE END USE CALLS FOR REVEGETATION OR CULTIVATION OF DISTURBED LANDS, I AGREE TO CONDUCT TOPSOIL SALVAGE, MAINTENANCE, AND REDISTRIBUTION ACTIVITIES IN CONFORMANCE WITH CCR SECTION 3711.

*Explain the reclamation procedures you will use to meet the standard cited above:*

**RECLAMATION STANDARDS continued**

CHECK APPLICABLE BOX

☐ REVEGETATION - REVEGETATION WILL BE A PART OF MY APPROVED RECLAMATION PLAN. I AGREE TO CONDUCT MY REVEGETATION ACTIVITIES IN CONFORMANCE WITH CCR SECTION 3705.

*Unless non-native species such as forage grasses or ornamentals will be used, specify at least four native species that occur on site or in the vicinity of the project and they will be used for revegetation.*

☐ CHECK BOX IF THE END USE PRECLUDES REVEGETATION OR THE CULTIVATION OF DISTURBED LANDS.

☐ CHECK BOX IF REVEGETATION IS NOT CONSISTENT WITH THE APPROVED END USE.

PROPOSED REVEGETATION PLAN:

PROPOSED REVEGETATION MIX:

**RECLAMATION STANDARDS continued**

✓ SUCCESS OF REVEGETATION WILL BE JUDGED UPON THE EFFECTIVENESS OF THE VEGETATION FOR THE APPROVED END USE AND BY COMPARING QUANTIFIED VEGETATIVE COVER, DENSITY, AND NUMBER OF SPECIES OF THE RECLAIMED MINED LANDS TO LOCAL AREAS OF NATURALLY OCCURRING VEGETATION OR PRE-MINING CONDITIONS (BASELINE).

| | BASELINE | PERFORMANCE STANDARD |
|---|---|---|
| DENSITY[1] | | |
| COVER[2] | | |
| SPECIES RICHNESS[3] | | |

[1] NUMBER OF INDIVIDUAL PERENNIAL PLANTS ROOTED PER 100 SQ FT.

[2] VERTICAL PROJECTION OF PERENNIAL PLANTS ONTO GROUND EXPRESSED AS % [e.g., if the sun was directly over a specified area, what percentage of that area would be shaded by the trees, plants, etc.]

[3] NUMBER OF PERENNIAL SPECIES PER 100 SQ FT.

## CHECK APPLICABLE BOX

☐ IF THE MINING OPERATION WILL NOT BE CONDUCTED ON PRIME AGRICULTURAL LANDS, AND THE SITE'S END USE WILL NOT BE AGRICULTURE, CHECK THIS BOX.

☐ IF THE MINING OPERATION WILL BE CONDUCTED ON PRIME AGRICULTURAL LANDS, BUT THE SITE'S END USE WILL NOT BE AGRICULTURE, CHECK THIS BOX.

☐ PRIME AGRICULTURAL LAND RECLAMATION - THE MINING OPERATION WILL BE CONDUCTED ON PRIME AGRICULTURAL LANDS, AND THE SITE'S END USE WILL BE AGRICULTURAL. THUS, I AGREE TO RECLAIM PRIME AGRICULTURAL LANDS IN CONFORMANCE WITH CCR SECTION 3707. *Explain the reclamation procedures you will use to meet the standard cited above.*

✓ RECLAMATION SUCCESS WILL BE JUDGED ON THE FOLLOWING PERFORMANCE STANDARD.

| | BASELINE | PERFORMANCE STANDARD |
|---|---|---|
| PRODUCTIVITY | | |

NOTE: PERFORMANCE STANDARD SHOULD BE BASED ON PRODUCTIVITY (e.g. bushels per acre, tons per acre).

RECLAMATION STANDARDS continued

## CHECK APPLICABLE BOX

☐ OTHER AGRICULTURAL LAND RECLAMATION - THE MINING OPERATION WILL BE CONDUCTED ON NON-PRIME AGRICULTURAL LANDS WHERE THE SITE'S END USE WILL BE AGRICULTURE. THUS, I AGREE TO RECLAIM NON-PRIME AGRICULTURAL LANDS IN CONFORMANCE WITH CCR SECTION 3708. *Explain the reclamation procedures you will use to meet the standard cited above.*

✔ RECLAMATION SUCCESS WILL BE JUDGED ON THE FOLLOWING PERFORMANCE STANDARD.

BASELINE PERFORMANCE STANDARD

PRODUCTIVITY

NOTE: PERFORMANCE STANDARD SHOULD BE BASED ON PRODUCTIVITY (e.g. bushels per acre, tons per acre).

☐ IF THE MINING OPERATION WILL BE CONDUCTED ON NON-PRIME AGRICULTURAL LANDS, BUT THE SITE'S END USE WILL NOT BE AGRICULTURE, CHECK THIS BOX.

☐ WILDLIFE PROTECTION - I AGREE THAT ALL WILDLIFE AND WILDLIFE HABITAT WILL BE PROTECTED IN ACCORDANCE WITH CCR SECTION 3703. *Provide a description of how the above protection will be accomplished:*

## CHECK APPLICABLE BOX

☐ BACKFILLING, REGRADING, SLOPE STABILITY, AND RECONTOURING - I AGREE THAT ALL BACKFILLING, REGRADING, SLOPE STABILITY, AND RECONTOURING WILL CONFORM WITH CCR SECTION 3704. *Explain the reclamation procedures you will use to meet the standard cited above:*

☐ CHECK THIS BOX IF FINAL RECLAIMED FILL SLOPES, INCLUDING PERMANENT PILES OR DUMPS OF MINE WASTE ROCK AND OVERBURDEN, WILL NOT EXCEED 2:1 (HORIZONTAL:VERTICAL).

EXPLANATION:

**RECLAMATION STANDARDS continued**

☐ CHECK THIS BOX IF FINAL RECLAIMED FILL SLOPES, INCLUDING PERMANENT PILES OR DUMPS OF MINE WASTE ROCK AND OVERBURDEN, WILL BE ____:____ [INDICATED SLOPE RATIO] WHICH IS STEEPER THAN 2:1 (HORIZONTAL:VERTICAL). ATTACH A SITE-SPECIFIC GEOLOGIC AND ENGINEERING ANALYSIS THAT DEMONSTRATES THAT THE PROPOSED FINAL SLOPE WILL HAVE A MINIMUM SLOPE-STABILITY FACTOR OF SAFETY THAT IS SUITABLE FOR THE PROPOSED END USE, AND THAT THE PROPOSED FINAL SLOPES CAN BE SUCCESSFULLY REVEGETATED.

EXPLANATION:

✔ PLEASE PROVIDE A GEOLOGIC CROSS SECTION OF CUT AND FILL SLOPES AT LOCATIONS OF MAXIMUM SLOPE HEIGHT. PLEASE IDENTIFY CROSS SECTION LOCATIONS ON THE SITE MAP.

---

☐ DRAINAGE, DIVERSION STRUCTURES, WATERWAYS, AND EROSION CONTROL - I AGREE THAT ALL DRAINAGE, DIVERSION STRUCTURES, WATERWAYS, AND EROSION CONTROL FACILITIES WILL CONFORM TO CCR SECTION 3706. *Explain the reclamation procedures you will use to meet the standard cited above:*

✔ IDENTIFY ALL DRAINAGE, DIVERSION STRUCTURES, WATERWAYS, AND EROSION CONTROL FACILITIES ON THE SITE MAP.

---

☐ BUILDING STRUCTURE AND EQUIPMENT REMOVAL - I AGREE TO RECLAIM ANY BUILDINGS, STRUCTURES, AND EQUIPMENT AREAS IN CONFORMANCE WITH CCR SECTION 3709. *Explain the reclamation procedures you will use to meet the standard cited above:*

✔ IDENTIFY ON THE SITE MAP THE LOCATION(S) WHERE ALL EQUIPMENT, SUPPLIES, AND OTHER MATERIALS WILL BE STORED;

✔ IDENTIFY WHICH BUILDINGS, STRUCTURES AND EQUIPMENT WILL BE: (1) DISMANTLED AND REMOVED OFF SITE; AND/OR (2) REMAIN ON SITE AS CONSISTENT WITH THE END USED.

---

☐ CLOSURE OF SURFACE OPENINGS - I AGREE TO CLOSE ALL SURFACE OPENINGS IN ACCORDANCE WITH CCR SECTION 3712. *Explain the reclamation procedures you will use to meet the standard cited above:*

✔ IDENTIFY ALL SURFACE OPENINGS ON SITE MAP:

**RECLAMATION STANDARDS continued**

## CHECK APPLICABLE BOX

☐ STREAM PROTECTION, INCLUDING SURFACE AND GROUNDWATER - I AGREE STREAMS, INCLUDING SURFACE AND GROUNDWATER WILL BE PROTECTED IN ACCORDANCE WITH CCR SECTION 3710.
*Explain the reclamation procedures you will use to meet the standard cited above:*

☐ CHECK THIS BOX IF THE MINING OPERATION IS CONDUCTED IN A STREAM OR OTHER WATERWAY AND ATTACH CROSS SECTION, OR AERIAL PHOTOGRAPHS, IDENTIFYING BASELINE STREAMBED ELEVATIONS.

✔ CHANGES IN CHANNEL, ELEVATIONS AND BANK EROSION SHALL BE EVALUATED ANNUALLY. EXTRACTION QUANTITIES AND ANNUAL CROSS SECTIONS AND/OR AERIAL PHOTOGRAPHS SHOULD BE SUBMITTED WITH THE ANNUAL REPORT REQUIRED BY PRC SECTION 2207.

☐ CHECK THIS BOX IF THE MINING OPERATION IS NOT CONDUCTED IN A STREAM OR OTHER WATERWAY.

## MONITORING

Pursuant to CCR Section 2773(a), the success of reclamation will be monitored for three years, or until performance standards are met, provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Remedial measures will be implemented as necessary to achieve the performance standards.

## LEAD AGENCY CERTIFICATION

I, the undersigned, hereby certify that this reclamation plan complies with the applicable requirements of Articles 1 and 9 (commencing with Sections 3500 et seq. and 3700 et seq., respectively) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and with the requirements of the Surface Mining and Reclamation Act, Sections 2710 et seq.

Signed this _____ day of, _____ 20____

Planning Director _____

## STATEMENT OF RESPONSIBILITIES

I, the undersigned, hereby agree to accept full responsibility for reclamation of all mined lands as described and submitted herein and in conformance with the applicable requirements of Articles 1 and 9 (commencing with Sections 3500 et seq. and 3700 et seq., respectively) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, the Surface Mining and Reclamation Act commencing with Section 2710 et seq., and with any modifications requested by the administering agency as conditions of approval.

Signed this _____ day of, _____ 20____

Mine Operator or Operator's Agent_____

APPROVED

| LEAD AGENCY REPRESENTATIVE(S) | DATE |
|---|---|
| (1) | |
| (2) | |

## CHECKLIST OF ATTACHMENTS

- ☐ MAP THAT IDENTIFIES HOW TO ACCESS THE MINE SITE FROM THE HIGHWAY
- ☐ TOPOGRAPHIC MAP OF LANDS THAT WILL BE AFFECTED BY MINING OPERATION
- ☐ COPY OF THE PROPOSED FINANCIAL ASSURANCE
- ☐ COPY OF THE APPROVED FINANCIAL ASSURANCE
- ☐ EVIDENCE ALL OWNERS OF A POSSESSORY INTEREST IN THE LAND TO BE MINED HAVE BEEN NOTIFIED OF THE END LAND USE
- ☐ TOPOGRAPHIC MAP SHOWING THE CONFIGURATION OF THE SITE ONCE RECLAIMED
- ☐ OTHER INFORMATION REQUIRED BY LEAD AGENCY'S SMARA ORDINANCE

DESCRIBE:

- ☐ GEOLOGIC REPORT
- ☐ OTHER REPORTS OR DOCUMENTS

DESCRIBE:

Page last updated: 03/30/99

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# Appendix A

## RECLAMATION COST ESTIMATE WORKSHEET FOR DETERMINING FINANCIAL ASSURANCES

ection 2773.1 of the Surface Mining and Reclamation Act (SMARA) requires all surface mining operations to have ad agency approved financial assurances to ensure reclamation is performed in accordance with the operation's pproved reclamation plan. The assurance is to be reviewed on an annual basis and revised accordingly to account r new lands disturbed, inflation, and reclamation of lands completed in accordance with the approved reclamation an.

his worksheet can be used to provide an estimate of the actual cost of reclamation of your operation based on xisting and/or anticipated disturbances resulting from your operation. This estimate should show a breakdown of st to include, but not be limited to, the following items.

. Earthwork/Recontouring

| | Labor | Equipment | Materials |
|---|---|---|---|
| 1. Roads | $ _____ | $_____ | $ _____ |
| 2. Slopes | $ _____ | $_____ | $ _____ |
| 3. Other tasks required by the lead agency | $ _____ | $_____ | $ _____ |
| Subtotal | $ _____ | $_____ | $ _____ |

Revegetation/Stabilization

| | Labor | Equipment | Materials |
|---|---|---|---|
| 1. Topsoil management | $ _____ | $_____ | $ _____ |
| 2. Re-seeding | $ _____ | $_____ | $ _____ |
| 3. Monitoring | $ _____ | $_____ | $ _____ |
| 4. Other tasks required by the lead agency | $ _____ | $_____ | $ _____ |
| Subtotal | $ _____ | $_____ | $ _____ |

Detoxification/Disposal of Waste

| | Labor | Equipment | Materials |
|---|---|---|---|
| 1. Tailings | $ _____ | $_____ | $ _____ |
| 2. Dumps | $ _____ | $_____ | $ _____ |
| 3. Heaps | $ _____ | $_____ | $ _____ |
| 4. Process Ponds | $ _____ | $_____ | $ _____ |
| 5. Drainage | $ _____ | $_____ | $ _____ |
| 6. Monitoring | $ _____ | $_____ | $ _____ |
| 7. Other tasks required by the lead agency | $ _____ | $_____ | $ _____ |
| Subtotal | $ _____ | $_____ | $ _____ |

D. Other reclamation activities required by the lead agency [specify task; use additional sheets if necessary].

| | Labor | Equipment | Materials |
|---|---|---|---|
| 1. | $ _____ | $_____ | $ _____ |
| 2. | $ _____ | $_____ | $ _____ |
| 3. | $ _____ | $_____ | $ _____ |
| 4. | $ _____ | $_____ | $ _____ |
| Subtotal | $ _____ | $_____ | $ _____ |

| | | |
|---|---|---|
| E. Insurance (on site liability—1.5%) | | $_____ |
| F. Contract Administration (15%) | | $_____ |
| G. Bond (performance and payment—1.5%) | | $_____ |
| H. Profit (10%) | | $_____ |
| I. Subtotal | | $_____ |
| J. Total of Subsections | $ _____ | $_____ |

| | |
|---|---|
| **GRAND TOTAL** | **$** |

*Note: The Board adopted Financial Assurance Guidelines in 1993 to assist mining operators and lead agency in complying with SMARA's financial assurance requirements. Please contact the State Mining and Geology Board at 801 K Street, MS 24-05, Sacramento, CA 95814 to receive a copy of the guidelines.*

## THE STATE MINING AND GEOLOGY BOARD

# PRINCIPLES FOR ADDRESSING IDLE MINING OPERATIONS UNDER THE SURFACE MINING AND RECLAMATION ACT

ADOPTED NOVEMBER 1994; REVISED MARCH 1996

### (1) What is an active mining operation?

Surface mining operations are defined as: "...all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine." Surface mining operations include, but are not limited to, inplace distillation or retorting or leaching, the production and disposal of mining waste, prospecting and exploratory activities, borrow pitting, streambed skimming, and segregation and stockpiling of mined materials (and recovery of same). Surface mining operations are "active" if engaged in any of these activities on a continuous or intermittent basis, so long as interruptions in mining activities do not exceed one year.

Reference: SMARA Section 2735 and California Code of Regulations Section 3501

### (2) What is an "idle" mining operation?

A surface mining operation is "idle" when operations are curtailed, for a period of one year or more, by more than 90 percent of the previous maximum annual mineral production, and where there is an intent to resume surface mining operations at a future date. A surface mine is NOT "idle" in this scenario if there is NO intent to resume operations. When there is no intent to resume operations, the mine is considered to be either "active" and reclaiming, or "abandoned."

### (3) What is the purpose of an Interim Management Plan?

When, for various reasons, a surface mining operation must significantly curtail operations for a period of time, it can be uneconomical or even counterproductive to begin reclamation of mined lands. While it would not be practicable to reclaim areas that will be re-disturbed in the near future, the public health and safety, as well as the environment, must be addressed until mining activities are resumed. An Interim Management Plan (IMP) is a temporary plan to address public health, safety, and environmental issues relevant to the site in question, e.g., drainage, erosion control, temporary fencing, etc.

Reference: SMARA Section 2770(h)

### (4) When is an IMP required?

Within 90 days of a mining operation becoming "idle," the operator must submit an IMP to the lead agency for review and approval. If the IMP is not filed within this 90 day period, the mine will be deemed "abandoned" and the operator will be responsible for the costs of reclamation. (See Scenario numbers 1 and 2)

Reference: SMARA Sections 2770(h), 2773.1(b)

### (5) What are the contents of an IMP?

SMARA requires the IMP to include a description of the measures the operator will implement to maintain the site in compliance with the Act, including, but not limited to, all permit conditions. Statute is otherwise silent as to the requirements of an IMP; however, measures to assure continued public health and safety should be identified. Lead agencies have the responsibility to determine what these measures should be. Any requirements deemed necessary to implement the Act's requirements for idle mines and IMPs should be included in the lead agency's SMARA ordinance, keeping in mind site-specific differences such as size, location, and type of mine operation.

Reference: SMARA Section 2770(h)(1)

### (6) How does an IMP relate to an approved reclamation plan?

An IMP is considered to be an *amendment* to a lead agency approved reclamation plan. The operation must have an approved reclamation plan *before* an IMP can be submitted to the lead agency for action—an IMP cannot be used in lieu of a reclamation plan. Because an IMP is intended to be a temporary plan to maintain stable site conditions until mining activities are resumed, the submittal of an IMP for processing by the lead agency would NOT be just cause to re-examine an approved reclamation plan and/or cause the plan to be subsequently amended.

Reference: SMARA Section 2770(h)(1)

### (7) Is an IMP subject to environmental review?

Statute specifically exempts IMPs from environmental review under the California Environmental Quality Act (CEQA).

Reference: SMARA Section 2770(h)(1)

### (8) What are the processing requirements for an IMP?

Upon receipt of an IMP, the lead agency has 60 days (or a period mutually agreed upon by the lead agency and the operator) in which to review and approve the IMP, and notify the operator, in accordance with the lead agency's SMARA ordinance. If the IMP does not meet the requirements of SMARA, the lead agency must notify the operator in writing of identified deficiencies, and allow 30 days (or a longer period mutually agreed upon by the lead agency and the operator) for the operator to submit a revised IMP. The lead agency has 60 days upon receipt of the revised IMP in which to approve or to deny approval of the revised IMP.

Reference: SMARA Section 2770(h) (4) through (5)

Because an IMP is considered to be an amendment to an approved reclamation plan, it is subject to Department of Conservation review. Prior to approval of an IMP, the lead agency must forward the document to the Department for review. The Department is granted 30 days in which to prepare written comments on the IMP. Lead agencies must evaluate the Department's comments, if any, and if the lead agency's position differs from the Department's, the lead agency must respond, in writing, and address in detail why specific comments and suggestions were not accepted.

Reference: SMARA Section 2770(h)(1), 2774(c)

### (9) What appeals, if any, are available to an operator should the IMP be denied lead agency approval?

If the lead agency denies approval of the revised IMP, SMARA guarantees the operator an appeal of that decision to the lead agency's governing body. The lead agency's governing body must schedule a public hearing on the appeal within 45 days of the filing of the appeal (or any longer period mutually agreed upon by the lead agency and the operator). Operators may not appeal unapproved IMPs to the State Mining and Geology Board or to the Department of Conservation.

Reference: SMARA Section 2770(h)(2)

### (10) How long may an IMP remain in effect?

An approved IMP may remain in effect for a period not to exceed five years. Once the five-year period has ended, the lead agency may: (1) renew the IMP for up to a five-year period if the mine operator has complied fully with the IM or (2) require the mine operator to commence reclamation accordance with the approved reclamation plan.

If the lead agency does not renew the IMP, then the mi operator must commence reclamation in accordance with t approved reclamation plan, or resume mining activitie SMARA states that unless review of an IMP is pending befo the lead agency, or an appeal is pending before the lead agency governing body, a mine that has been idle for over one ye and has not obtained an approved IMP, shall be consider abandoned and the operator shall commence and comple reclamation in accordance with the approved reclamation pla

Reference: SMARA Section 2770(h)(2) and (6)

### (11) What are the annual requirements of an "idle mine?

Idle mining operations must maintain lead agenc approved financial assurances for reclamation. The amou of the financial assurances must be calculated, reviewed, ar approved in the same manner as financial assurances fo active mining operations.

Reference: SMARA Sections 2770(h)(3) and 2773.1

All surface mining operators, including those with "idle mine status, are required to file an annual report with th Department of Conservation using forms furnished by the Stat Mining and Geology Board, together with the appropriat reporting fee. (See Scenario number 3.)

Reference: PRC Section 2207

Idle mining operations are subject to annual inspection to ensure the operator is complying with the permitting an IMP requirements.

Reference: SMARA Section 2774(b)

## HYPOTHETICAL SCENARIOS

### SCENARIO No. 1

A mining operator extracts aggregate from a dry river be having winter flow in the past year. The next six months ar unusually wet, and after the rainy season, water remains stand ing in some locations and is just below the surface in others The mine operator's Department of Fish and Game 1603 Agree ment prohibits the operator from mining under "wet" condi tions. Therefore, no mining occurs for the entire 12 montl period. The next winter also results in above normal rainfal and the same conditions exist; thus, no mining occurs fo another 12 month period. Does the mine operator need ar Interim Management Plan (IMP)?

**ANSWER:**

Under the above conditions, the mine operator would file n IMP 90 days after the first 12 month period ends if he/she intends to resume mining activities once conditions allow. The operator can specify how long, up to five years, the IMP will remain in effect. The operator may commence mining operations while an approved IMP is in effect.

**SCENARIO No. 2**

In 1990, a mine operation produced 100,000 short tons f mined material—the largest amount of material produced y this operation to date. During calendar years 1991 through October 1993, the mine produced between 70,000 and 90,000 hort tons. From November 1993 until September 1994, the peration produced no material. In October through Novemer 1994, the operation produced 10,000 short tons of mined naterials. The operation produced no mined materials in December 1994. The operator intends to actively mine the ite beginning in January 1997. How would this operator file nnual reports for the 1993 and 1994 reporting years? When ould the operator be required to file an IMP?

**ANSWER:**

This operator would file as an active mine operation for ne 1993 reporting (calendar) year since he/she produced more han 10% of the previous annual maximum. For the 1994 eporting year, the operator would file as idle.

Since the operator intends to resume active mining, and om November 1993 to November 1994 the mine produced ss than 10% of the previous annual maximum (10,000 short ns), the operator should have an approved IMP by February 995 (90 days after the mine operation became idle). A copy f the IMP would be filed with the 1994 annual report due on ly 1, 1995.

**SCENARIO No. 3**

A mining operator spends one calendar year mining and ompiling a large stockpile. Calendar years two through five, ne operator does not extract new material, but sells materials om the stockpile. Year six, the mining operator begins the ycle over by mining new material during one calendar year rebuild the stockpile. What are the annual reporting requirements for calendar years one through six?

**ANSWER A:**

If the stockpile is located on the SAME site minerals are extracted, the mining operator would report as an "active mine" for each calendar year. California Code of Regulations Section 3501 defines the segregation and stockpiling of mined materials, and the recovery of same, as a surface mining operation. Therefore, if a mine operator continues to remove mined materials for a stockpile on a year-round basis, the mine is considered active for annual reporting purposes.

**ANSWER B:**

The mine operator would file as "idle" for years two through six, and must obtain an approved IMP in year two, if the stockpile is on a plant site NOT located on the same site from which minerals are extracted. The mining operator may be exempt from filing an annual report for the stockpile site only. SMARA Section 2714(c) states the operation of a plant site used for on-site stockpiling and on-site recovery of mined materials may be considered exempt from SMARA and annual reporting requirements if the following conditions are met:

(1) the plant is located on lands designated for industrial or commercial uses in the applicable county or city general plan;

(2) the plant is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county;

(3) none of the minerals being processed are extracted on-site;

(4) all reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on-site after January 1, 1976.

In this instance, it is recommended that the mine operator contact the lead agency to determine whether the site qualifies for this exemption. If so, the mine operator would not file an annual report. If the site does not qualify for this exemption, the mine operator would file his/her annual report as directed in Answer A.

Note: Regardless of whether a report is filed annually for the stockpile, the mining operator is still required to file an annual report for the site where the mined materials are being extracted.

GUIDELINES FOR CLASSIFICATION AND DESIGNATION OF MINERAL LANDS

# GUIDELINES FOR CLASSIFICATION AND DESIGNATION OF MINERAL LANDS

## PREFACE

The Surface Mining and Reclamation Act of 1975 (SMARA) mandated the initiation by the State Geologist of mineral land classification in order to help identify and protect mineral resources in areas within the State subject to urban expansion or other irreversible land uses which would preclude mineral extraction. SMARA also allowed the State Mining and Geology Board (SMGB), after receiving classification information from the State Geologist, to designate lands containing mineral deposits of regional or statewide significance.

Construction aggregate was selected by the SMGB to be the initial commodity targeted for classification because of its importance to society, its unique economic characteristics, and the imminent threat that continuing urbanization poses to that resource.

In 1980, at the request of SMGB, SMARA was amended to provide for the classification of non-urban areas subject to land-use threats incompatible with mining. As a result, SMARA studies were begun during 1981 in the western Sierra Nevada foothills and in the California Desert Conservation Area, a large part of the desert in southeastern California: studies in these regions focussed on all mineral resources other than aggregate, common clay, and dimension stone.

Currently, the State Geologist's SMARA classification activities are carried out under a single program for urban and non-urban areas of the state. Mineral lands are mapped according to jurisdictional boundaries (i.e., counties, groups of counties, or major parts of counties), mapping all mineral commodities at one time in the area, including aggregate, common clay, and dimension stone using the California Mineral Land Classification System. Priority is given to areas where future mineral resource extraction could be precluded by incompatible land use or to mineral resources likely to be mined during the 50-year period following their classification.

Maps showing the areas classified and designated to date are in Appendix B and the classification reports are listed in Appendix C. The SMGB and the State Geologist may be contacted at the addresses and telephone numbers below.

Department of Conservation
STATE MINING AND GEOLOGY BOARD
801 K Street, MS 24-05
Sacramento, CA 95814-3528
Telephone: (916) 322-1082
smgb@consrv.ca.gov

Department of Conservation
DIVISION OF MINES AND GEOLOGY
801 K Street, MS 08-38
Sacramento, CA 95814-3531
Telephone: (916) 327-0791
www.consrv.ca.gov

## INTRODUCTION

The purpose of these guidelines is to help implement SMARA by providing the State Geologist with direction in carrying out mineral resource classification of lands in California that are threatened by uses that would be incompatible with, or would preclude mining. In addition, these guidelines describe how the SMGB may elect to designate mineral-bearing areas of statewide or regional significance.

*Classification* is the process of identifying lands containing significant mineral deposits. *Designation* is the formal recognition by the SMGB, after consultation with lead agencies and other interested parties, of areas containing mineral deposits of regional or statewide significance.

The objective of classification and designation processes is to ensure, through appropriate lead agency policies and procedures, that mineral deposits of statewide or of regional significance are available when needed.

## SECTION I. GUIDELINES FOR CLASSIFICATION OF MINERAL LANDS

### 1. Classification Priorities

The SMGB, based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. Areas which are generally given highest priority are those areas within the State which are subject to urban expansion or other irreversible land uses which would preclude mineral extraction. Areas where such threat is perceived to be most severe are given highest priority.

A schedule of current and planned mapping activities prioritized for classification is available on request from the SMGB.

### 2. Classification Criteria

Classification is completed by the State Geologist in accordance with the SMGB's priority list, into Mineral Resource Zones (MRZ), as defined in Section I. 3. Classification of these areas is based on geologic and economic factors without regard to existing land use and land ownership.

A. *Determination of Significance*—To be considered significant for the purpose of the classification of mineral lands, a mineral deposit (or a group of deposits that can be mined as a unit) must be actively mined under a valid permit or meet the following criteria of marketability and threshold value.

(1) *Marketability*—Deposits of mineral commodities must be minable, processable, and marketable under the technologic and economic conditions that exist at present or which ca be estimated to exist in the next 50 years. Because some c the conditions affecting extraction and marketability canno be accurately projected 50 years into the future, conservativ estimates will be made in assessing whether a particular min eral resource can be mined, processed, and marketed withi the next 50 years.

(2) *Threshold value*—For those deposits that meet the mar ketability criteria, only those estimated to exceed the follow ing threshold values in 1998-equivalent dollars will b considered significant. The threshold value is based on the gros selling price of the first marketable product from an individua mineral deposit (or from a group of deposits that can be oper ated as a unit) after completion of extraction and any required mineral separation and processing. Threshold values will be adjusted annually using the annual average U.S. Consumer Price Index for the preceding year, as published by the U.S Department of Labor, Bureau of Labor Statistics. These threshold values are intended to indicate in a general way the approximate minimum size of a mineral deposit that will be considered significant for classification and designation. They are not intended, nor in practice could they be, for use as precise cut-off values. For some deposits a larger threshold value would be required for a deposit or deposits to be marketable. For operating producing mines, the threshold value may be reduced by the SMGB as local circumstances dictate. If for technological or other reasons one or more parts of a mineral deposit cannot meet the marketability criteria, those parts are not to be considered in estimating whether the deposit exceeds the threshold value.

(i) *Construction materials* (1998 minimum threshold value $12,500,000) —Mineral materials capable of being used in construction which normally receive minimal processing, commonly washing and grading, and for which the ratio of transportation costs to value of the processed material at the mine is high. Examples of this category include:

Sand and gravel
Crushed rock

(ii) *Industrial and chemical mineral materials* (1998 minimum threshold value $2,500,000)—Non-metallic mineral materials that normally receive extensive processing, such as heat or chemical treatment or fine sizing, and for which the ratio of transportation costs to value of the material at the mine is moderate or low. Examples of this category include:

Limestone, dolomite, and marble except where used as construction aggregate
Specialty sands
Clays
Diatomite

Phosphate
Coal, lignite, or peat mined primarily as a raw material for chemicals such as montan wax
Salines and evaporites such as borates and gypsum
Feldspar
Talc
Building and dimension stone
Asbestos
Rock varieties producible into granules, rock flour, mineral wool, expanded shale, pozzolans, and other similar commodities.

(iii) *Metallic and rare minerals* (1998 minimum threshold value $1,250,000)—Metallic elements and minerals, gemstones, and minerals that possess special properties valuable to society and for which the ratio of transportation costs to the value of the material at the mine is low. Examples include ores, deposits, or crystals of:

Precious metals (gold, silver, platinum)
Iron and other ferro-alloy metals (tungsten, chromium, manganese)
Base metals (copper, lead, zinc)
Mercury
Uranium and thorium (except syngenetic deposits in shale)
Rare earths
Minor metals including rubidium, strontium, and cesium
Gemstones and semi-precious materials
Niobium and tantalum
Optical-grade calcite

(iv) *Non-fluid mineral fuels* (1998 minimum threshold value $2,500,000)—Non-hydrothermal mineral fuels occurring in sedimentary rocks. Examples include:

Coal
Lignite
Peat
Organic shale
Tar sand
Uranium and thorium (syngenetic deposits in shale)

B. *Determination of Mineral Resource Zones (MRZs)*—The establishment of MRZs is based on a geologic appraisal of the mineral resource potential of the land. This appraisal includes research of geologic and mining-related literature, compilation of geologic maps, and plotting of reported mines and prospects using publications and mine data of the Department of Conservation's Division of Mines and Geology (DMG), U.S. Geological Survey, the former U.S. Bureau of Mines, and the Bureau of Land Management. It also involves field work which includes site investigations of mines and mineral prospects, sampling of rocks for chemical and physical analyses and petrographic studies, geophysical surveys, and geologic mapping as appropriate.

Field and analytical data are integrated and evaluated for assigning Mineral Resource Zones to areas in accordance with the mineral classification guidelines adopted by the SMGB.

C. *The California Mineral Land Classification System*—To implement Article 4, Section 2761b of SMARA, the State Geologist developed the Mineral Resource Zone (MRZ) nomenclature and criteria based on what herein is referred to as the California Mineral Land Classification System.

The California Mineral Land Classification System is a modification of a mineral resource classification system developed by the U.S. Bureau of Mines and U.S. Geological Survey (1980) that represents the relationship between knowledge of mineral deposits and their economic characteristics (grade and size). The nomenclature used with the California Mineral Land Classification System is important in communicating mineral potential information in activities such as mineral land classification, and usage of these terms are incorporated into the criteria developed for assigning mineral resource zones. The horizontal axis of the California Mineral Land Classification System Diagram (Figure) represents degree of knowledge about mineral deposits while the vertical axis represents economic characteristics.

The four major divisions on the diagram are "Areas of Identified Mineral Resource Significance," "Areas of Undetermined Mineral Resource Significance," "Areas of Unknown Mineral Resource Significance," and "Areas of No Mineral Resource Significance." The divisions between these major "knowledge" categories marks the divisions between areas classified MRZ-2, MRZ-3, MRZ-4, and MRZ-1; wherein lands classified MRZ-2 are areas that contain identified mineral resources, lands classified MRZ-3 are areas of undetermined mineral resource significance, lands classified MRZ-4 are areas of unknown mineral resource potential, and lands classified MRZ-1 are areas where geologic information indicates no significant mineral deposits are present.

Following are definitions of the nomenclature associated with the State Geologist's criteria for mineral land classification and the California Mineral Land Classification System. It is important to refer to these definitions when studying the different resource categories used in classification of lands. Particular attention should be given to the distinction between a mineral deposit and a resource and how a mineral deposit may relate to resources.

(1) *Mineral deposit*—A naturally occurring concentration of minerals in amounts or arrangement that under certain conditions may constitute a mineral resource. The concentration may be of value for its chemical or physical characteristic or for both of these properties.

(2) *Economic*—This term implies that profitable extraction or production under defined investment assumptions have been established, analytically demonstrated, or assumed with reasonable certainty.

(3) *Resource*—A concentration of naturally occurring solid, liquid, or gaseous material in and/or on the Earth's crust in such form and amount that economic extraction of a commodity from the concentrations is currently potentially feasible.

(4) *Identified resources*—Resources whose location, grade, quality, and quantity are known or estimated from specific geologic evidence. Identified resources include economic, marginally economic, and sub-economic components. To reflect varying degrees of geologic certainty, these economic divisions can be subdivided into measured, indicated, and inferred.

(5) *Inferred resources*—Estimates are based on an assumed continuity beyond measured and/or indicated resources, for which there is geologic evidence. Inferred resources may or may not be supported by samples or measurements.

(6) *Reserves*—That part of the resource base which could be economically extracted or produced within the foreseeable future; usually used in reference to permitted resources. The term reserves need not signify that extraction facilities are in place and operative.

(7) *Measured reserves*—Quantity is computed from dimensions revealed in outcrops, trenches, workings, or drill holes; grade and/or quality are computed from the results of detailed sampling. The sites for inspection, sampling, and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth, and mineral content of the resource are well established.

(8) *Indicated reserves*—Quantity and grade and/or quality are computed from information similar to that used for measured resources, but the sites for inspection, sampling, and measurement are farther apart or otherwise less adequately spaced. The degree of assurance, although lower than that for measured resources, is high enough to assume continuity between points of observation.

(9) *Demonstrated reserves*—A term for the sum of measured plus indicated reserves.

(10) *Marginal reserves*—That part of the reserve base which, at the time of determination, borders on being economically producible. The essential character here is economic uncertainty. Included are resources that would be producible, given postulated changes in economic or technologi factors.

## 3. Mineral Resource Zone Categories

The following MRZ categories are used by the Stat Geologist in classifying the State's lands. The geologic an economic data and the arguments upon which each unit MR assignment is based are presented in the mineral land classifi cation report transmitted by the State Geologist to the SMGB

In order to communicate information concerning th existence of mineral resources within lands subject to classi fication, the classification categories set forth in guideline by the SMGB have been adapted from the California Minera Land Classification System Diagram (Figure). These adapta tions are presented below:

A. *MRZ-1*—Areas where adequate geologic information indicates that no significant mineral deposits are present, o where it is judged that little likelihood exists for their presence. This zone is applied where well developed lines of reasoning, based on economic-geologic principles and adequate data, indicate that the likelihood for occurrence of significant mineral deposits is nil or slight.

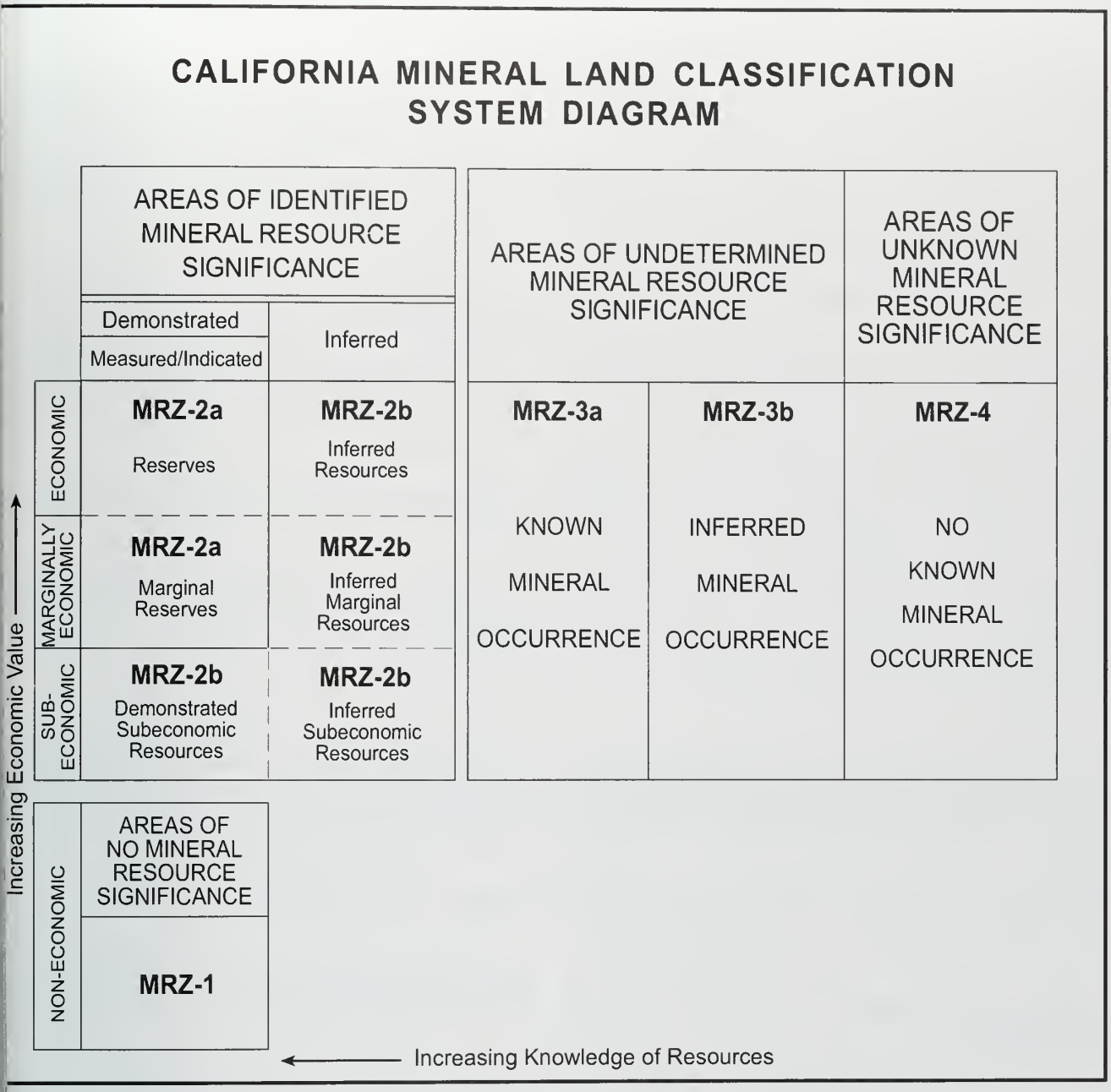
B. *MRZ-2a*—Areas underlain by mineral deposits where geologic data show that significant measured or indicated resources are present. As shown on the diagram of the California Mineral Land Classification System, MRZ-2 is divided on the basis of both degree of knowledge and economic factors. Areas classified MRZ-2a contain discovered mineral deposits that are either measured or indicated reserves as determined by such evidence as drilling records, sample analysis, surface exposure, and mine information. Land included in the MRZ-2a category is of prime importance because it contains known economic mineral deposits. A typical MRZ-2a area would include an operating mine, or an area where extensive sampling indicates the presence of a significant mineral deposit.

C. *MRZ-2b*—Areas underlain by mineral deposits where geologic information indicates that significant inferred resources are present. Areas classified MRZ-2b contain discovered deposits that are either inferred reserves or deposits that are presently sub-economic as determined by limited sample analysis, exposure, and past mining history. Further exploration work and/or changes in technology or economics could result in upgrading areas classified MRZ-2b to MRZ-2a. A typical MRZ-2b area would include sites where there are good geologic reasons to believe that an extension of an operating mine exists or where there is an exposure of mineralization of economic importance.

D. *MRZ-3a*—Areas containing known mineral deposits that may qualify as mineral resources. Further exploration work

Increasing Economic Value

## CALIFORNIA MINERAL LAND CLASSIFICATION SYSTEM DIAGRAM



within these areas could result in the reclassification of specific localities into the MRZ-2a or MRZ-2b categories. MRZ-3a areas are considered to have a moderate potential for the discovery of economic mineral deposits. As shown on the diagram of the California Mineral Land Classification System, MRZ-3 is divided on the basis of knowledge of economic characteristics of the resources. An example of a MRZ-3a area would be where there is direct evidence of a surface exposure of a geologic unit, such as a limestone body, known to be or to contain a mineral resource elsewhere but has not been sampled or tested at the current location.

E. *MRZ-3b*—Areas containing inferred mineral deposits that may qualify as mineral resources. Land classified MRZ-3b represents areas in geologic settings which appear to be favorable environments for the occurrence of specific mineral deposits. Further exploration work could result in the reclassification of all or part of these areas into the MRZ-3a category or specific localities into the MRZ-2a or MRZ-2b categories. MRZ-3b is applied to land where geologic evidence leads to the conclusion that it is plausible that economic mineral deposits are present. An example of a MRZ-3b area would be where there is indirect evidence such as a geophysical or geochemical anomaly along a permissible structure which indicates the possible presence of a mineral deposit or that an ore-forming process was operative.

F. *MRZ-4*—Areas where geologic information does not rule out either the presence or absence of mineral resources.The distinction between the MRZ-1 and MRZ-4 categories is important for land-use considerations. It must be emphasized that MRZ-4 classification does not imply that there is little likelihood for the presence of mineral resources, but rather there is a lack of knowledge regarding mineral occurrence. Further exploration work could well result in the reclassification of land in MRZ-4 areas to MRZ-3 or MRZ-2 categories.

## 4. Criteria for Determination of Aggregate Resource Areas (ARAs)

ARAs are areas classified MRZ-2a or MRZ-2b for construction aggregate that have current land uses which are similar to those areas which have been mined in the past. The purpose of determining ARAs is to provide a semi-quantified estimate of construction aggregate resources which are likely to be available to satisfy society's needs during the 50-year period following the classification of an area. This estimate, when compared to DMG projected needs for the next 50 years, provides the context for communities to plan for future aggregate needs in their land-use policies. This information is distributed by the SMGB to all affected lead agencies. The establishment of ARAs in no way infringes on the authority of the local governments to make land-use decisions. The determination of ARAs is also intended for the use of the SMGB in identifying areas which are candidates for designation unde SMARA.

The specific land uses listed on the Table are considere to be generally incompatible with mining and have bee excluded from ARAs. MRZs containing land uses not liste will be considered for inclusion as an ARA. The criteria are t be applied only to lands classified MRZ-2a and MRZ-2b fc construction aggregate.

The estimation of future mineral resource availability i ARAs is not a precise analysis, but rather the best genera estimate which can be made with the data available. Onc ARAs have been identified, they are divided into one of thre relative categories of significance as follows—Immediatel Significant, Highly Significant, and Significant. The criteri for the rating are:

A. *Immediately Significant*—All permitted lands withi ARAs.

B. *Highly Significant*—ARAs that contain 10 or mor times the threshold value of material, or that are adjacent t property currently permitted for mining.

C. *Significant*—All remaining ARAs.

If conditions warrant, an ARA may be changed fron Highly Significant to Significant or from Significant to Highl Significant. These conditions include but are not limited to rarity of the commodity, proximity to an operating aggregate plan, and distance from market areas.

## 5. Mineral Land Classification Reports

A. *Report Contents*—Areas assigned by the State Geologist to mineral resource zones are delineated on suitable maps at scales adequate for use on lead agency general plan maps. A summary report showing the mineral land classification mapped according to jurisdictional boundaries (i.e., counties, groups of counties, or major portions of counties) is prepared after classification is complete. Maps also show the boundaries of each permitting authority in the report area.

B. *Public Workshop*—Before a report is finalized, a public workshop is conducted in the principal jurisdiction covered by the report. The workshop is an opportunity for interested parties and individuals (lead agency planners, mine operators, public interest groups, members of SMGB, and others) to comment on the findings of the report, and for preparers of the report to incorporate relevant comments into the final report and maps. Subsequent to the workshop, the report and maps are finalized and submitted to the SMGB. The maps and report are then formally transmitted by the SMGB to those lead agencies which have areas classified as MRZ-2a,

## TABLE

riteria for determining which MRZ-2a and MRZ-2b areas or parts of MRZ-2a and MRZ-2b areas are suitable as Aggregate esource Areas.

here are two general categories of exclusion: I. Economic Exclusion, and II. Social Exclusion.

I. Economic Exclusion

A. Residential areas, and areas committed to residential development, such as approved tracts
B. Commercial areas with land improvements (buildings)
C. Industrial areas (buildings and adjacent needed storage and parking facilities)
D. Major public or private engineering projects

1. Canals
2. Freeways
3. Bridges
4. Airports and associated developments such as parking lots
5. Dams
6. Railroads
7. Major pipelines
8. Major power transmission lines

E. Small areas isolated by urbanization (generally less than 40 acres)

II. Social Exclusion

A. Cemeteries
B. Public parks, developed historical sites and structures, and public recreation areas of all types
C. Public or private schools, institutions, hospitals, and prisons, including adjacent developments such as parking lots
D. Military bases and reservations

RZ-2b, or MRZ-3a or MRZ-3b within their jurisdiction. he report and maps are also made available to other interested parties.

C. *Lead Agency Responsibilities*—Within 12 months of eiving a mineral lands classification report, the lead agency all develop and adopt mineral resource management poli-s in accordance with Article 4. Section 2762(a) of SMARA.

D. *Reports on Construction Materials*—Mineral land ssification reports of regions containing deposits of consuction aggregate classified MRZ-2a or MRZ-2b include the llowing additional information:

(1) The identification of ARAs and their ranking by the egories *Immediately Significant*, *Highly Significant*, and *nificant* as explained in Section I. 4.

(2) An estimate of the total quantity of construction gregate that will be needed to supply the requirements of the county or marketing region in which it occurs for the next 50 years. The marketing region is defined as the area within which such material is usually mined and marketed. The amount of construction aggregate needed for the next 50 years is projected using past consumption rates adjusted for anticipated changes in population. These estimates are periodically reviewed as provided in Section 1. 6.

### 6. Periodic Review of Classified Lands

A. The State Geologist may periodically review the mineral land classification information in defined study regions to determine whether:

(1) A reclassification of the area is necessary.

(2) The projected requirements for construction materials for the next 50 years should be revised.

B. The State Geologist will report the results of such reviews to the SMGB together with recommendations. The

SMGB may direct the State Geologist to reexamine mineral lands already classified on the basis of his recommendation, or for other reasons. Any resulting reclassification will be treated in the same manner as the original classification, and employ the same marketability and threshold criteria. The 50-year period for purposes of estimating marketability will begin anew at the time of reclassification.

## SECTION II. PROCEDURES FOR DESIGNATION OF LANDS CONTAINING SIGNIFICANT MINERAL DEPOSITS

### 1. Designation Criteria

Areas to be considered for designation by the SMGB will contain one or more mineral deposits believed to be of statewide or regional significance. Ordinarily, classification of a mineral deposit as MRZ-2a or MRZ-2b by the State Geologist will constitute adequate evidence that an area contains significant mineral deposits, but other data shall be considered by the SMGB in determining the significance of specific mineral deposits and the desirability of designation.

### 2. Designation Procedures

A. Upon receipt from the State Geologist of a mineral land classification map and report delineating one or more areas classified as MRZ-2a or MRZ-2b and a recommendation by the State Geologist that all or parts of the MRZ-2a or MRZ-2b areas be designated, the SMGB may:

(1) Review the map and report to determine the sufficiency of the submitted data as a basis for designation, and request such additional information as may be required from the State Geologist or other sources.

(2) Determine the need for, and the priority of, designation, taking into consideration the importance of the mineral deposits to the State or region thereof and the imminence of any threatened land-use changes that would be incompatible with mineral extraction.

(3) Notify the appropriate lead agencies of the decision to consider designation of mineral resource areas within their jurisdiction.

(4) Set a date and place for a public hearing to consider the areas which the SMGB proposes to designate as containing mineral deposits of statewide or regional significance. If feasible, the public hearing shall be held in or near the county in which the area proposed for designation occurs.

(5) Notify all known affected agencies and parties having an interest in the lands considered for designation.

B. At the public hearing to consider proposed designations, the SMGB shall seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of mineral deposits of statewide or regional significance. Such review and comment should address:

(1) The adequacy of the mineral lands classification data transmitted by the State Geologist and of any additional data transmitted to the SMGB, which together will constitute the principal basis for designation.

(2) Additional data bearing on the presence and marketability of mineral deposits proposed to be of statewide or regional significance in the area under consideration.

(3) The need, amount, and location of mineral deposits of regional significance that should be designated, and, in the case of construction materials, the needs of the region for 50 years.

(4) The existing uses of the areas proposed for designation and the future uses of these areas adopted by local agencies.

(5) Values relating to recreation, watershed, wildlife range and forage, and aesthetic enjoyment.

C. Following the public hearing, the SMGB may designate to be of statewide or regional significance, and include in state policy, all or part of the proposed areas classified as MRZ-2a or MRZ-2b. The designation report will specify the following:

(1) The boundaries of the designated areas.

(2) The mineral deposits of statewide or regional significance contained in each designated area.

(3) An estimate of the amount of each mineral commodity that is available for mining under present (or foreseeable) technologic, economic, and land-use conditions, for designated MRZ-2a or MRZ-2b areas, unless to do so would reveal proprietary data.

(4) The reason that each designated area is of significance to the State or region, the advantages to the State or region that might be achieved from the extraction of the minerals of the area, and the adverse effects that might result from premature development and/or land uses that would preclude mining.

(5) The specific goals and policies to protect the areas containing mineral deposits designated to be of statewide or regional significance from premature development to uses that

vould preclude mining, or to uses with which mining would e incompatible.

(6) Lead agencies having jurisdiction over the area.

D. Upon designation of an area or areas containing sig-ificant mineral deposits, the SMGB will transmit a report f its action to the affected lead agencies. The report will nclude a map of the designated areas in a format suitable for eneral plan purposes.

E. The SMGB shall monitor local government implemen-tion of its mineral resource management policies for desig-ated areas as described in Section 3676 of Article 6 of the ublic Resources Code.

### . Termination of Designation Status

A. The status of mineral lands previously designated to e of statewide or regional significance may be terminated, ither partially or wholly, by the SMGB on a finding that the esignation status is no longer necessary or appropriate. Such n action is a rulemaking procedure that must be accomplished n compliance with the provisions of the Administrative Pro-edures Act (California Government Code, Section 11340-et eq.).

B. Prior to making such a finding, the SMGB shall hold a ublic hearing. If feasible, it shall be held in or near the county n which the designated area occurs. Such a finding may esult from, but not be limited to, the depletion of the mineral eposit or deposits within the designated area.

C. Petitions may also be brought before the SMGB to ter-inate the designated status of mineral lands pursuant to the bove referenced provisions of the Administrative Procedures ct. Petitions submitted to the SMGB shall include the fol-wing information:

(1) The petitioner's name, mailing address, and interest wner, lessee, agent, or other) in the petitioned area.

(2) A map (USGS 7½' quadrangle or other appropriate ap) showing the boundaries of the petitioned area.

(3) Reference to the specific SMGB action that designated e area.

(4) The reasons and supporting data as to why direct MGB involvement is no longer necessary.

D. The SMGB shall then evaluate the data submitted in e petition as to its accuracy and sufficiency. If the SMGB nds that the petition contains sufficient information and guments to require a public hearing on termination, then the SMGB shall schedule such a hearing and proceed as outlined in this section.

### 4. Designation Appeals

The procedures for appealing the approval or denial, by a lead agency, of a permit to conduct surface mining in an area designated by the SMGB are given in the Public Resources Code, Section 2775 and in the California Code of Regulations, Title 14., Division 2., Chapter 8., Subchapter 1., Article 4.

## SECTION III. GUIDELINES FOR CLASSIFICATION AND DESIGNATION PETITIONS

### 1. Classification Petitions

Petitions may be brought before the SMGB by any individual or organization to classify mineral lands that are claimed to contain significant mineral deposits. A petition form is provided in Appendix A.

It should be recognized that petitioning does not create an instantaneous action, but rather starts in motion the classification process which requires actions by the State Geologist, the SMGB, and lead agencies prior to a final land-use decision.

A. *Criteria for Consideration of Classification Petitions*—

(1) Petitions will be preliminarily reviewed by the State Geologist to determine if the deposit meets the threshold value and other criteria required to qualify as MRZ-2a or MRZ-2b as in Section I.2. If these criteria are met, the State Geologist will recommend acceptance of the petition by the SMGB. Upon acceptance of the petition by the SMGB, the State Geologist will conduct a study sufficient in scope to classify mineral deposit areas that are the subject of the petition.

(2) The petitioner must supply sufficient geologic and economic data to enable the State Geologist to classify the mineral deposit areas that are the subject of the petition. The State Geologist may rely on proprietary data supplied by the petitioner. Such data, as requested of the petitioner and clearly marked, shall remain proprietary.

B. *Priority Considerations for Classification Petitions*— Prior to submitting a petition application, the petitioner should contact the SMGB or the State Geologist to find out about any current or pending classification studies by the State Geologist in the area of the petition deposit and the scheduled completion dates.

After acceptance of a petition by the SMGB, it will be ranked according to priority for classification based on the chronological order of acceptance unless otherwise specified by

the SMGB. The petitioned classification report will be completed as determined by its priority ranking after receipt of all of the petition fees.

The SMGB will notify affected lead agencies after formal acceptance of a petition for classification and each petition's assigned priority for classification. The SMGB will also provide them with a copy of the accepted petition.

C. *Classification Petition Fees*—There are two fees to be paid by the petitioner:

(1) A fee of $5,000 for conducting the preliminary review of the petition application.

(2) A processing fee for conducting the classification study. Prepayment of the processing fee to cover the costs of conducting the classification study will be required if the petition is accepted. The petitioner will be provided with an estimate of the cost of conducting the classification study. Any funds in excess of the amount actually needed for conducting the study will be refunded to the petitioner. Any undercollected funds must be submitted prior to the official release of the report.

## 2. Designation Petitions

A. Prior to permitting a use that would threaten the poter tial to extract minerals classified by the State Geologist a MRZ-2a or MRZ-2b but not yet designated, the lead agenc may petition the SMGB for a designation hearing.

B. Petitions for a designation hearing may also be broug before the SMGB by any other party provided that the SMG has received and approved land classification information tha indicated that the area in question is classified MRZ-2a c MRZ-2b and that the SMGB has not yet considered designa tion. A petition form is provided in Appendix A.

C. SMGB shall then forward the data to the State Geolo gist who will evaluate it as to its accuracy and sufficiency an make a recommendation to the SMGB for or against designa tion of all or part of the area petitioned for designation.

D. If the SMGB finds that the petition contains sufficien information and arguments to require a public hearing, the the SMGB shall schedule such a hearing and proceed as out lined in Section II. 1. and 2.

# Appendix A

## Petition for Classification-Designation of Mineral Lands

Part I
Mineral Information

. The petitioner's name, mailing address and interest (owner, lessee, agent, or other) in the area to be considered for classification.

_____

_____

_____

2. Name and legal description of petitioned deposit. Attach map (USGS 7 1/2 minute quadrangle or other appropriate map) showing the boundaries of the area the petitioner wishes to have classified.

_____

_____

_____

_____

3. A description of the significant mineral deposits claimed to occur within the area described, including sufficient geologic and economic data to support the claim that the mineral deposits are significant as defined in the "Guidelines for Classification and Designation of Mineral Lands."

_____

_____

_____

_____

a. Geologic setting (Attach map)

_____

_____

_____

_____

b. Mineral commodities

_____

_____

_____

c. Value of deposit [-1,-2] _____

Tonnage [-2] _____ Grade [-2] _____

[-1] Gross selling price of first marketable product
[-2] Estimated values

The mineral information (Part I) of this petition and its supporting documentation are accurate and supportable by the supplied information and the deposit is as stated.

Signature of Petitioner

Date _____

Part II
Land-Use Information

4. The name and mailing address of each recorded land owner and each recorded lessee in and adjoining the area described. (Attach separate sheet)

5. Action requested. If designation is requested in addition to classification, then the reasons for requesting designation should also be stated.

_____

_____

_____

_____

The land-use information (Part II) of this petition and its supporting documentation are accurate and supportable by the supplied information.

Signature of Petitioner

Date _____

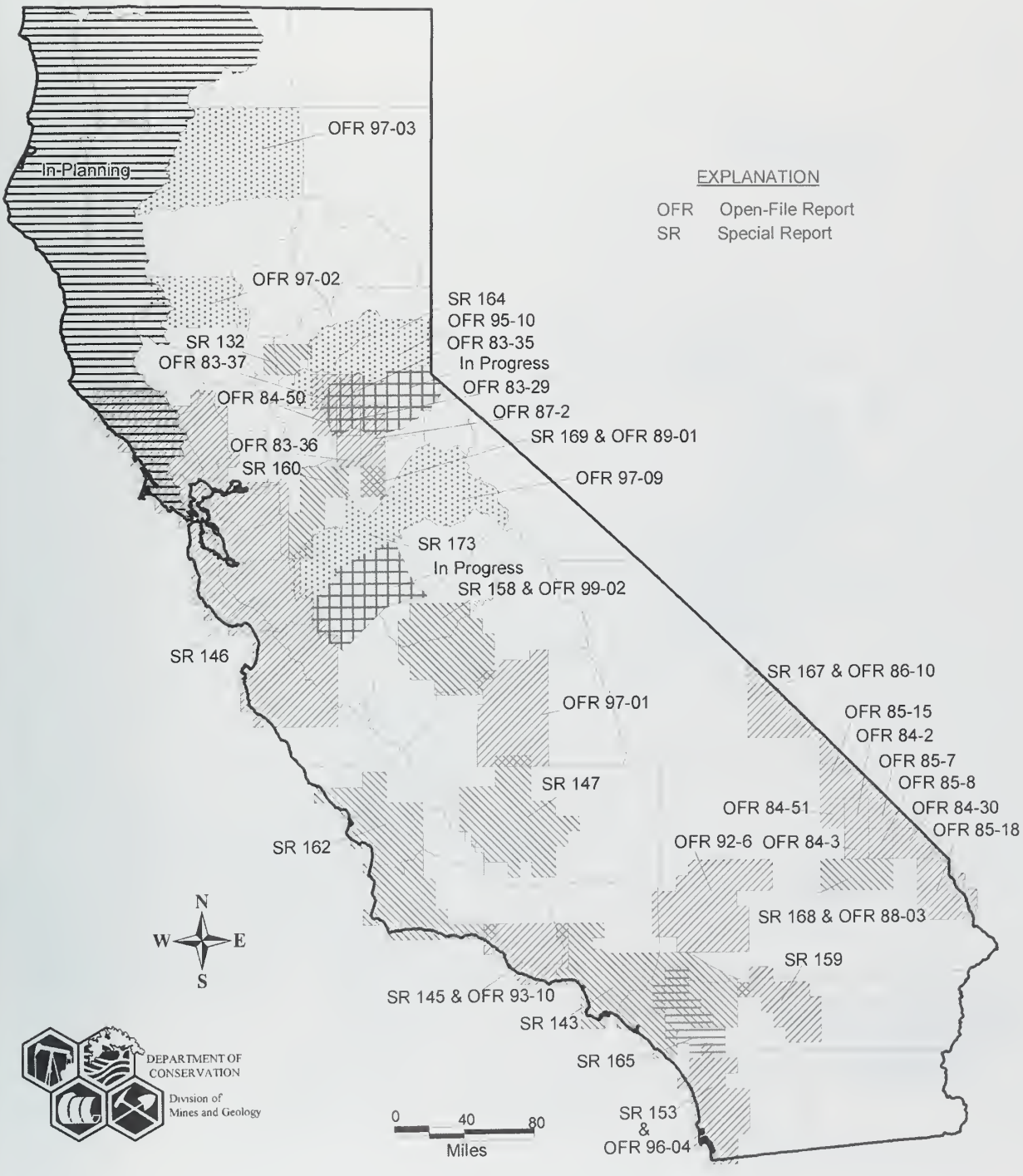
This form is to be used as a guide for content and format. Additional information sheets may be attached as necessary.

# Appendix B

## Index Map of SMARA Mineral Land Classification Reports

Map 1 of 2*

October 1999

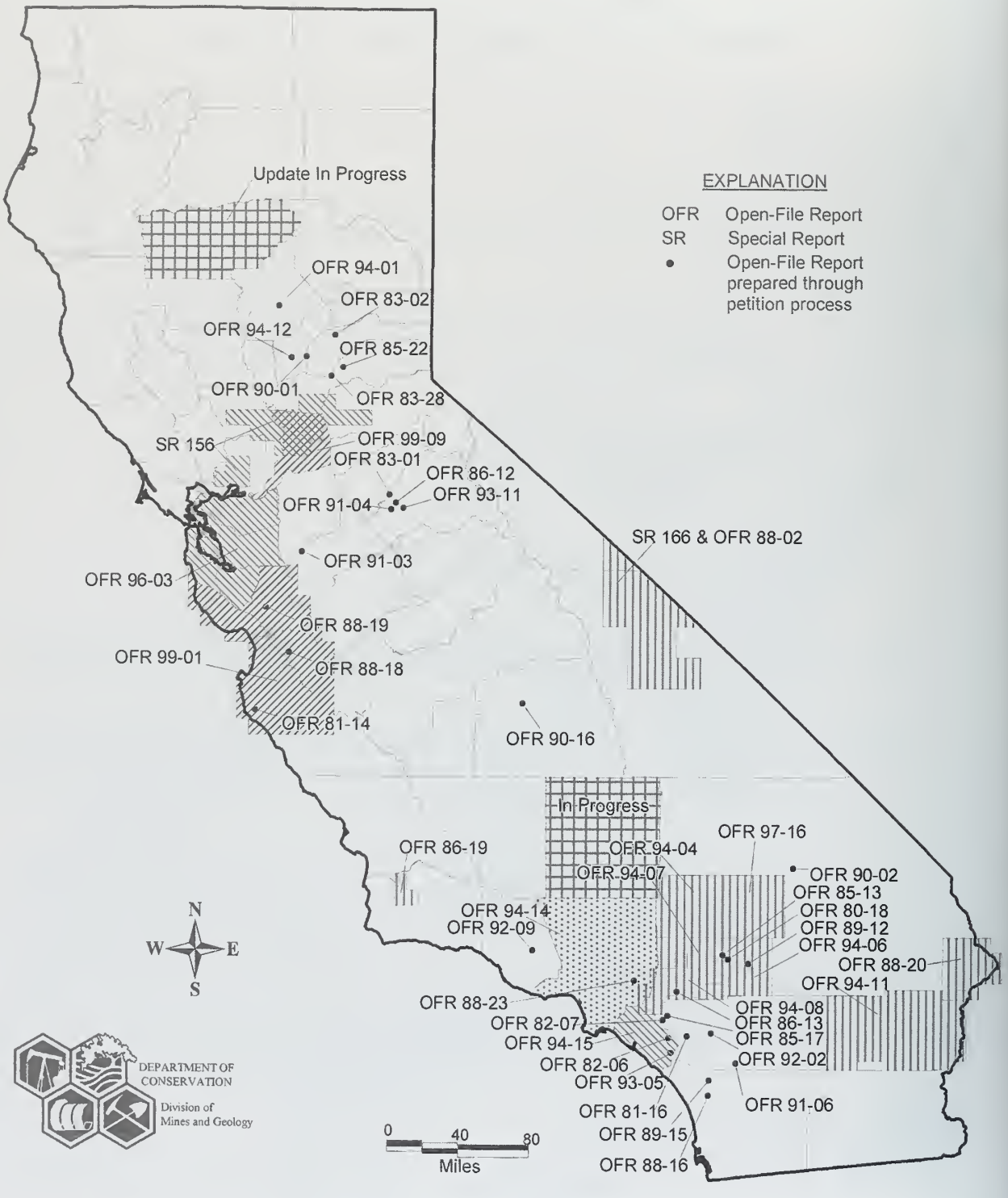



* The SMARA report locales are shown on two index maps and with varied rendering for map clarity.

# Index Map of SMARA Mineral Land Classification Reports

Map 2 of 2

October 1999




* The SMARA report locales ere shown on two index maps and with veried rendering for map clarity.

# Appendix C

## Publications of the SMARA Mineral Land Classification Project Dealing with Mineral Resources in California

January 2000

California Department of Conservation
Division of Mines and Geology
Geologic Information and Natural Resources Program
Mineral Resources Development Project
801 K Street, MS 08-38
Sacramento, CA 95814-3531

Minerals Program Managers

Supervising Geologist: Trinda L. Bedrossian (916) 327-6977

SMARA North: Robert L. Hill, Senior Geologist (916) 322-3119

SMARA South: Russell V. Miller, Senior Geologist (213) 239-0883

Minerals Laboratory and Mineral Hazards: Ronald K. Churchill, Senior Geologist (Specialist) (916) 327-0745

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## SMARA SPECIAL REPORTS DEALING WITH MINERAL RESOURCES

**SR 132:** Mineral Land Classification: Portland Cement Concrete-Grade Aggregate in the **Yuba City-Marysville** Production-Consumption Region. Habel, R.S., and Campion, L.F., **1986**.

**SR 139:** Aggregate in the **Greater Los Angeles Area**, California. Evans, J.R., Anderson, T.P., Manson, M.W., Maud, R.L., Clark, W.B., and Fife, D.L., **1979**.

**SR 143:** Part I: Mineral Land Classification of the **Greater Los Angeles Area**: Description of the Mineral Land Classification Project of the Greater Los Angeles Area. Anderson, T.P., Loyd, R.C., Clark, W.B., Miller, R.V., Corbaley, Richard, Kohler, Susan, and Bushnell, M.M., **1979**.

**SR 143:** Part II: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **San Fernando Valley** Production-Consumption Region. Anderson, T.P., Loyd, R.C., Clark, W.B., Miller, R.V., Corbaley, Richard, Kohler, Susan, and Bushnell, M.M., **1979**.

**SR 143:** Part III: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **Orange County-Temescal Valley** Production-Consumption Region. Miller, R.V., Corbaley, Richard, **1981**.

**SR 143:** Part IV: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **San Gabriel Valley** Production-Consumption Region. Kohler, Susan, **1982**.

**SR 143:** Part V: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **Saugus-Newhall** Production-Consumption Region and **Palmdale** Production-Consumption Region. Joseph, S.E., Miller, R.V., Tan, S.S., and Goodman, R.W., **1987**.

**SR 143:** Part VI: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **Claremont-Upland** Production-Consumption Region. Cole, J.W., **1987**.

**SR 143:** Part VII: Mineral Land Classification of the **Greater Los Angeles Area**: Classification of Sand and Gravel Resource Areas, **San Bernardino** Production-Consumption Region. Miller, R.V., **1987**.

**SR 145:** Mineral Land Classification of **Ventura County**;

Part I: Description of the Mineral Land Classification Project of Ventura County;

Part II: Classification of the Sand, Gravel, and Crushed Rock Resource Areas, **Simi** Production-Consumption Region;

Part III: Classification of the Sand, Gravel, and Crushed Rock Resource Areas, **Western Ventura County** Production-Consumption Region. Anderson, T.P., Loyd, R.C., Kiessling, E.W., Kohler, S.L., and Miller, R.V., **1981**.

**SR 146:** Part I: Mineral Land Classification: Aggregate Materials in the **San Francisco-Monterey Bay Area**: Project Description: Mineral Land Classification for Construction Aggregate in the San Francisco Monterey Bay Area. Stinson, M.C., Manson, M.W, and Plappert, J.J., **1986**.

**SR 146:** Part II: Mineral Land Classification: Aggregate Materials in the **San Francisco-Monterey Bay Area**: Classification of Aggregate Resource Areas: **South San Francisco Bay** Production-Consumption Region. Stinson, M.C., Manson, M.W., and Plappert, J.J., **1987**.

**SR 146:** Part III: Mineral Land Classification: Aggregate Materials in the **San Francisco-Monterey Bay Area**: Classification of Aggregate Resource Areas: **North San Francisco Bay** Production-Consumption Region. Stinson, M.C., Manson, M.W., and Plappert, J.J., **1987**.

**SR 146:** Part IV: Mineral Land Classification: Aggregate Materials in the **San Francisco-Monterey Bay Area**: Classification of Aggregate Resource Areas: **Monterey Bay** Production-Consumption Region. Stinson, M.C., Manson, M.W., and Plappert, J.J., **1989**.

**SR 147:** Mineral Land Classification: Aggregate Materials in the **Bakersfield** Production-Consumption Region. Cole, J.W., **1988**.

**SR 153:** Mineral Land Classification: Aggregate Materials in the **Western San Diego County** Production-Consumption Region. Kohler, S.L., and Miller, R.V., **1982**.

**SR 156:** Mineral Land Classification: Portland Cement Concrete Grade Aggregate in the **Sacramento-Fairfield** Production-Consumption Region. Dupras, D.L., **1988**.

**SR 158:** Mineral Land Classification: Aggregate Materials in the **Fresno** Production-Consumption Region. Cole, J.W., and Fuller, D.R., **1986**.

**SR 159:** Mineral Land Classification: Aggregate Materials in the **Palm Springs** Production-Consumption Region. Miller, R.V., **1987**.

**SR 160:** Mineral Land Classification: Portland Cement Concrete-Grade Aggregate in the **Stockton-Lodi** Production-Consumption Region. Jensen, L.S., and Silva, M.A., **1989**.

**SR 162:** Mineral Land Classification: Portland Cement Concrete Aggregate and Active Mines of all other Mineral Commodities in the **San Luis Obispo-Santa Barbara** Production-Consumption Region. Miller, R.V., Cole, J.W., and Clinkenbeard, J.P., **1991**.

**SR 164:** Mineral Land Classification of **Nevada County**, California. Loyd, R.C., and Clinkenbeard, J.P., **1990**.

**SR 165:** Mineral Land Classification of the **Temescal Valley Area**, **Riverside County**, California. Miller, R.V., Shumway, D.O., and Hill, R.L., **1991**.

**SR 166:** Mineral Land Classification of the **Eureka-Saline Valley Area**, **Mono and Inyo Counties**, California. Taylor, G.C., and Joseph, S.E, **1993**.

**SR 167:** Mineral Land Classification of the **Ash Meadows**, **Big Dune**, **Eagle Mountain**, **Funeral Peak**, **Ryan**, **Pahrump**, and **Stewart Valley 15'** and **High Peak 7.5' Quadrangles**, **Inyo County**, California.Taylor, G.C, **1993**.

**SR 168:** Mineral Land Classification of the **Kerens, Flynn, and Colton Well 15-Minute Quadrangles, San Bernardino County, California**. Loyd, R.C, **1993**.

**SR 169:** Mineral Land Classification of the **San Andreas 15' Quadrangle**, **Calaveras County**, California. Taylor, G.C., Greenwood, Richard, and Joseph, Stephen, **1993**.

**SR 173:** Mineral Land Classification of **Stanislaus County**, California. Higgins, C.T., and Dupras, D.L., **1993**.

## SMARA SPECIAL REPORTS SHOWING COUNTY/AREA

| | |
|---|---|
| SR 132 | **Yuba City-Marysville** (1986). |
| SR 139 | **Greater Los Angeles Area** (1979). |
| SR 143 (Part I) | **Greater Los Angeles Area** (1979). |
| SR 143 (Part II) | **San Fernando Valley** (1979). |
| SR 143 (Part III) | **Orange County-Temescal Valley** (1981). |
| SR 143 (Part IV) | **San Gabriel Valley** (1982). |
| SR 143 (Part V) | **Saugus-Newhall / Palmdale** (1987). |
| SR 143 (Part VI) | **Claremont Upland** (1987). |
| SR 143 (Part VII) | **San Bernardino** (1987). |
| SR 145 | **Ventura County** (1981). |
| SR 145 (Part I) | **Introduction** |
| SR 145 (Part II) | **Simi** |
| SR 145 (Part III) | **Western Ventura County** |
| SR 146 (Part I) | **San Francisco-Monterey Bay Area** (1986). |
| SR 146 (Part II) | **South San Francisco Bay** (1987). |
| SR 146 (Part III) | **North San Francisco Bay** (1987). |
| SR 146 (Part IV) | **Monterey Bay** (1989). |
| SR 147 | **Bakersfield** (1988). |
| SR 153 | **Western San Diego County** (1982). |
| SR 156 | **Sacramento-Fairfield** (1988). |
| SR 158 | **Fresno** (1986). |
| SR 159 | **Palm Springs** (1987). |
| SR 160 | **Stockton-Lodi** (1989). |
| SR 162 | **San Luis Obispo-Santa Barbara** (1991). |
| SR 164 | **Nevada County** (1990). |
| SR 165 | **Temescal Valley/Riverside County** (1991). |
| SR 166 | **Mono and Inyo Counties** (1993). |
| SR 167 | **Inyo County** (1993). |
| SR 168 | **San Bernardino County** (1993). |
| SR 169 | **Calaveras County** (1993). |
| SR 173 | **Stanislaus County** (1993). |

## SMARA OPEN-FILE REPORTS DEALING WITH MINERAL RESOURCES

**OFR 80-18** Mineral Land Classification of **Pfizer, Inc.** Limestone Deposits in Lucerne Valley, **San Bernardino County**, California. (Petition) Miller, R.V., and Morton, P.K., **1980**.

**OFR 81-14** Mineral Land Classification of **Granite Rock Company** Limestone Deposits in the **Pico Blanco Area**, **Monterey County**, California. (Petition) Stinson, M.C., **1982**.

**OFR 81-16** Mineral Land Classification of **Pacific Clay Products, Inc.**, Clay Deposits in the **Alberhill Area**, **Riverside County**, California. (Petition) CDMG Staff, **1982**.

**OFR 82-06** Mineral Land Classification of the **Riverside Cement Company Platz Property** Deposit in Trabuco Canyon, **Orange County**, California. (Petition) Greenwood, R.B., **1982**.

**OFR 82-07** Mineral Land Classification of the **Pacific Clay Products, Inc.**, **Thomas Clay Deposit**, Corona, **Riverside County**, California. (Petition) Joseph, S.E., **1982**.

**OFR 83-01** Mineral Land Classification of the **Ordway Skunk Gulch Carbonate Deposit**, **Calaveras County**, California. (Petition) Loyd, R.C., **1982**.

**OFR 83-02** Mineral Land Classification of the **Placer Service Corporation**, Placer Gold Deposit on **San Juan Ridge**, **Nevada County**, California. (Petition) Loyd, R.C., **1983**.

**OFR 83-28** Mineral Land Classification of the **Joe Chevreaux Company** Property for Portland-Cement-Concrete-Grade Aggregate, **Nevada** and **Placer Counties**, California. (Petition) Dupras, D.L., **1983**.

**OFR 83-29** Mineral Land Classification of the **Placerville 15' Quadrangle**, **El Dorado**, and **Amador Counties**, California. Loyd, R.C., Anderson, T.P., and Bushnell, M.M., **1983**.

**OFR 83-35** Mineral Land Classification of the **Georgetown 15' Quadrangle**, **El Dorado**, and **Placer Counties**, California. Kohler, S.L., **1983**.

**OFR 83-36** Mineral Land Classification of the **Sutter Creek 15' Quadrangle**, **Amador**, and **Calaveras Counties**, California. Loyd, R.C., **1983**.

**OFR 83-37** Mineral Land Classification of the **Auburn 15' Quadrangle**, **El Dorado**, and **Placer Counties**, California. Kohler, S.L., **1984**.

**OFR 84-02** Mineral Land Classification of the **Mescal Range 15' Quadrangle**, **San Bernardino County**, California. Joseph, S.E., **1984**.

**OFR 84-03** Mineral Land Classification of the **Kelso 15' Quadrangle**, **San Bernardino County**, California. Greenwood, R.B., **1984**.

**OFR 84-21** Mineral Land Classification of **Pleuss-Staufer, Inc.**, Limestone Deposits, Lucerne Valley, **San Bernardino County**, California. (Petition) Joseph, S.E., **1984**.

**OFR 84-30** Mineral Land Classification of the **Lanfair Valley**, **Homer Mountain**, and **Davis Dam 15' Quadrangles**, **San Bernardino County,** California. Kohler, S.L., **1984**.

**OFR 84-50** Mineral Land Classification of the **Folsom 15' Quadrangle**, **El Dorado**, **Placer**, and **Amador Counties**, California. Loyd, R.C., **1984**.

**OFR 84-51** Mineral Land Classification of the **Halloran Springs 15' Quadrangle**, **San Bernardino County**, California. Greenwood, R.B., **1984**.

**OFR 85-07** Mineral Land Classification of the **Ivanpah**, **Crescent Peak**, and **Searchlight 15' Quadrangles**, **San Bernardino County**, California. Joseph, S.E., **1985**.

**OFR 85-08** Mineral Land Classification of the **Mid Hills 15' Quadrangle**, **San Bernardino County**, California. Greenwood, R.B., **1985**.

**OFR 85-13** Mineral Land Classification of **Pleuss-Staufer, Incorporated White Knob Limestone Deposit**, Lucerne Valley, **San Bernardino County**, California. (Petition) Joseph, S.E., **1985**.

**OFR 85-15** Mineral Land Classification of the Northern **Kingman 1° by 2° Quadrangle**, **San Bernardino County**, California. Bezore, S.P., and Joseph, S.E., **1987**.

**OFR 85-17** Mineral Land Classification of the **United States Tile Company Dominguez Clay Deposit**, Corona, **Riverside County**, California. (Petition) Joseph, S.E., **1985**.

**OFR 85-18** Mineral Land Classification of the NE Quarter of the **Needles 1° by 2° Quadrangle**, **San Bernardino County**, California. Kohler, S.L., Loyd, R.C., and Burnett, J.L., **1985**.

**OFR 85-22** Mineral Land Classification of the **W.L. Harvey Clay/Shale Deposit**, **Placer County**, California. (Petition) Taylor, G.C., **1985**.

**OFR 86-10** Mineral Land Classification of the **Ash Meadows**, **Big Dune**, **Eagle Mountain**, **Funeral Peak**, **Ryan**, **Pahrump**, and **Stewart Valley 15'** and **High Peak 7.5' Quadrangles**, **Inyo County**, California. Taylor, G.C., **1986.** (Reprinted as SR 167)

**OFR 86-12** Mineral Land Classification of the South Half of the **Bald Mountain/Browns Flat Gold Mining District**, **Tuolumne County**, California. (Petition) Loyd, R.C., **1986.**

**OFR 86-13** Mineral Land Classification of the **Matich Corporation Declezville Quarry**, Fontana, **San Bernardino County**, California. (Petition) Joseph, S.E., **1986**.

**OFR 86-19** Mineral Land Classification of a portion of the **Sisquoc River**, **Santa Barbara County**, California - for Portland-Cement Concrete-Grade Aggregate. (Petition) Cole, J.W., and Jensen L.S., **1986**.

**OFR 87-02** Mineral Land Classification of the **Camino and Mokelumne Hill 15' Quadrangles**, **El Dorado**, **Amador**, and **Calaveras Counties**, California. Loyd, R.C., and Kohler, S.L., **1987**.

**OFR 88-02** Mineral Land Classification of the **Eureka-Saline Valley Area**, **Mono and Inyo Counties**, California. Taylor, G.C., and Joseph, S.E., **1988**. (Reprinted as SR 166)

**OFR 88-03** Mineral Land Classification of the **Kerens**, **Flynn**, and **Colton Well 15' Quadrangles**, **San Bernardino County**, California. Loyd, R.C., **1988**.

**OFR 88-16** Mineral Land Classification of the **Sycamore Ridge Property**, San Marcos Quadrangle, **San Diego County**, California - for Portland Cement Concrete Grade Aggregate. (Petition) Clinkenbeard, J.P., **1988.**

**OFR 88-18** Mineral Land Classification of the **Pearce Quarry Site**, **Hollister Quadrangle**, **San Benito County**, California - for Aggregate Materials. (Petition) Clinkenbeard, J.P., **1988.**

**OFR 88-19** Mineral Land Classification of the **San Bruno Canyon** Greenstone Deposits, Morgan Hill Quadrangle, **Santa Clara County**, California - for Aggregate Materials. (Petition) Jensen, L.S., **1988**.

**OFR 88-20** Mineral Land Classification of the **Whipple** and **Riverside Mountains**, **San Bernardino** and **Riverside Counties**, California. Kohler, S.L., and Bezore, S.P., **1988**.

**OFR 88-23** Mineral Land Classification of the **Fish Canyon Quarry**, **Azusa Quadrangle**, **Los Angeles County**, California for Portland Cement Concrete Aggregate and Base Aggregate. (Petition) Miller, R.V., **1988**.

**OFR 89-01** Mineral Land Classification of the **San Andreas 15' Quadrangle**, **Calaveras County**, California.Taylor, G.C., Greenwood, Richard, and Joseph, Stephen **1989.** (Reprinted as SR 169)

**OFR 89-12** Mineral Land Classification of the **Smart Ranch Limestone Property**, **Big Bear City** and **Rattlesnake Canyon Quadrangles**, **San Bernardino County**, California for High-Grade and Cement-Grade Limestone. (Petition) Miller, R.V., **1989**.

**OFR 89-15** Mineral Land Classification of the **Pankey Ranch Site**, **Bonsall Quadrangle**, **San Diego County**, California - for Aggregate Materials. (Petition) Clinkenbeard, J.P., **1989**.

**OFR 90-01** Mineral Land Classification of the **Western World Mining Company Copper-Zinc Deposit** near Smartville, **Yuba County**, California. (Petition) Taylor, G.C., **1990**.

**OFR 90-02** Mineral Land Classification of the **Calmat Land Co. Baxter Iron/Carbonate Rock Deposit**, **San Bernardino County**, California. (Petition) Anderson, T.P., **1990**.

**OFR 90-16** Mineral Land Classification of the **Hannah Ranch Site**, **Tulare County**, California, for Portland Cement Concrete Aggregate. (Petition) Pridmore, C.L., **1990**.

**OFR 91-03** Mineral Land Classification of the **South Tracy Site**, **San Joaquin County**, California, for Portland Cement Concrete Aggregate. (Petition) Boylan, Richard, and Loyd, Ralph, **1991**.

**OFR 91-04** Mineral Land Classification of the **Jamestown Mine** Property, **Tuolumne County**, California, for Lode Gold Resources. (Petition) Loyd, R.C., and Boylan, Richard, **1991**.

**OFR 91-06** Mineral Land Classification of the **Wilson Creek Property, Aguanga, Cahuilla Mtn., Sage, and Vail Lake Quadrangles**, **Riverside County**, California for Asphaltic or Portland Cement Concrete-Grade Aggregate. (Petition) Miller, R.V., **1991**.

**OFR 92-02** Mineral Land Classification of the **Winchester Aggregate Site**, **Romoland** and **Winchester Quadrangles**, **Riverside County**, California for Asphaltic-Concrete-Grade Aggregate and Base-Grade Aggregate. (Petition) Strand, R.G., **1992**.

**OFR 92-06** Mineral Land Classification of Concrete Aggregate Resources in the **Barstow-Victorville Area**. Miller, R.V., **1993**.

**OFR 92-09** Mineral Land Classification of the **Boulder Creek Aggregate Site, Fillmore Quadrangle**, **Ventura County**, California for Portland Cement Concrete, Asphaltic Concrete Aggregate, and Base Aggregate. (Petition) Strand, R.G., **1992**.

**OFR 93-05** Mineral Land Classification of the **Ortega Rock Quarry** Property, **Canada Gobernadora 7.5' Quadrangle**, **Orange County**, California, for Asphaltic-Concrete-Grade Aggregate and Construction Aggregate. (Petition) Shumway, D.O., **1993**.

**OFR 93-10** Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, California, Part I - **Ventura County**. Miller, R.V., **1993**.

**OFR 93-11** Mineral Land Classification of the **Rough and Ready Creek Site**, **Standard 7.5' Quadrangle**, **Tuolumne County**, California, for Carbonate Rock (Limestone and Dolomite). Silva, M.A., **1993**.

**OFR 94-01** Mineral Land Classification of the **Green Rock Quarries Oroville Plant No. 1** Property, **Oroville Quadrangle**, **Butte County**, California, for Railroad Ballast. (Petition) Stinson, M.C., **1994**.

**OFR 94-04** Mineral Land Classification of a Part of Southwestern **San Bernardino County**: the **Barstow-Victorville Area**, California. Bezore, S.P., and Shumway, D.O., **1994**.

**OFR 94-06** Mineral Land Classification of a Part of Southwestern **San Bernardino County**: The **Big Bear Lake-Lucerne Valley Area**, California. Taylor, G.C., **1994**.

**OFR 94-07** Mineral Land Classification of a Part of **Southwestern San Bernardino County**, California: A Part of **the Eastern San Gabriel Mountains** and the **Western San Bernardino Mountains**. Shumway, D.O., and Hill, R.L., **1995**.

**OFR 94-08** Mineral Land Classification of a Part of Southwestern **San Bernardino County**: the **San Bernardino Valley Area**, California. Shumway, D.O., and Silva, M.A., **1994**.

**OFR 94-11** Mineral Land Classification of the **Eastern Half of Riverside County**, California. Kohler-Antablin, S., **1994**.

**OFR 94-12** Mineral Land Classification of the **Triangle Properties Hofman Ranch Site**, **Browns Valley 7.5' Quadrangle**, **Yuba County**, California, for Portland Cement Concrete-Grade Aggregate. (Petition) Higgins, C.T., and Dupras, D.L., **1994**.

**OFR 94-14** Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, California, Part II - **Los Angeles County**. Miller, R.V., **1994**.

**OFR 94-15** Update of Mineral Land Classification of Portland Cement Concrete Aggregate in Ventura, Los Angeles, and Orange Counties, California, Part III - **Orange County**. Miller, R.V., **1995**.

**OFR 95-10** Mineral Land Classification of **Placer County**, California Loyd, Ralph, **1995**.

**OFR 96-03** Update of Mineral Land Classification: Aggregate Materials in the **South San Francisco Bay** Production-Consumption Region. Kohler-Antablin, Susan, **1996**.

**OFR 96-04** Update of Mineral Land Classification: Aggregate Materials in the Western **San Diego County** Production-Consumption Region. Miller, R.V., **1996**.

**OFR 97-01** Mineral Land Classification of Concrete Aggregate Resources in the **Tulare County** Production-Consumption Region, California. Taylor, G.C., **1997**.

**OFR 97-02** Mineral Land Classification of Concrete-Grade Aggregate Resources in **Glenn County**, California. Shumway, D.O., **1997**.

**OFR 97-03** Mineral Land Classification of Alluvial Sand and Gravel, Crushed Stone, Volcanic Cinders, Limestone, and Diatomite within **Shasta County**, California. Dupras, D., **1997**.

**OFR 97-09** Mineral Land Classification of a Portion of **Tuolumne County**, California, for Precious Metals, Carbonate Rock, and Concrete-Grade Aggregate. Higgins, C.T., **1997**.

**OFR 97-16** Mineral Land Classification of a Part of Southwestern **San Bernardino County**: the **Barstow-Newberry Springs Area**, California. Bezore, S.P., **1997**.

**OFR 99-02** Update of Mineral Land Classification: Aggregate Materials in the **Fresno** Production—Consumption Region, California. Youngs, L.G., and Miller, R.V., **1999**.

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